

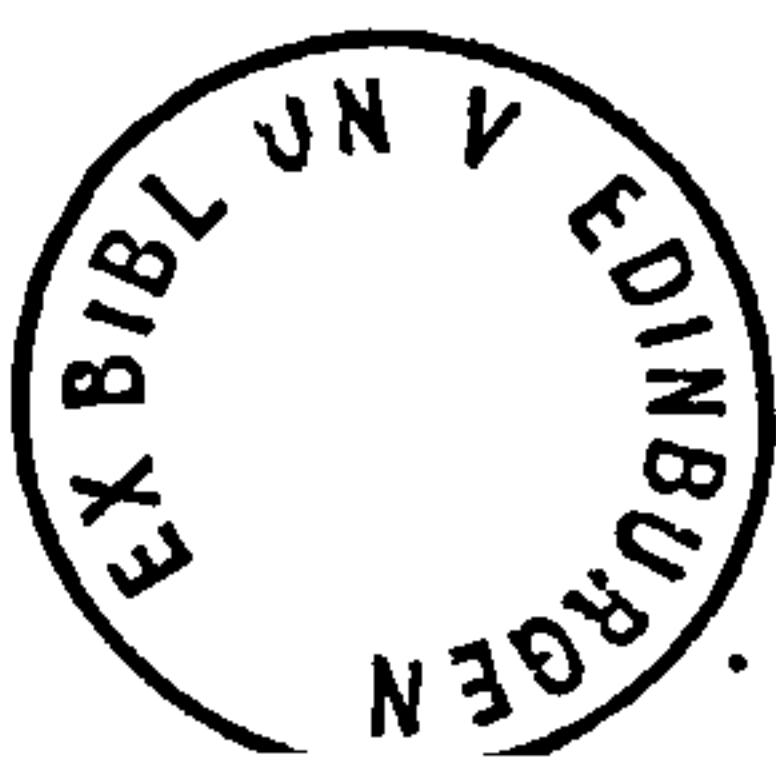
A STUDY OF IBRĀHĪM AL-ḤALABĪ WITH  
SPECIAL REFERENCE TO THE MULTAQĀ

Presented by

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T O M Y F A T H E R

F O R H I S

S u p p o r t

E n c o u r a g e m e n t

L o v e

I n s p i r a t i o n

M a g n a n i m i t y

## Table of Contents

	<u>Page</u>
Acknowledgements	i
Abstract	iii
Abbreviations	iv
Note on Transliteration	vi
Foreword	vii
INTRODUCTION	
A. The Biography of al-Ḥalabī	1
B. Al-Ḥalabī as a Scholar	12
CHAPTER I - HISTORICAL BACKGROUND TO AL-ḤALABĪ'S LIFE AND CAREER IN MAMLUK KINGDOM	19
CHAPTER II - HISTORICAL BACKGROUND TO AL-ḤALABĪ'S LIFE AND CAREER IN THE OTTOMAN EMPIRE	75
CHAPTER III - THE WORKS OF AL-ḤALABĪ	108
A. Commentaries on Previous Works	109
B. Al-Ḥalabī's own works mentioned by Brockelmann	118
C. Al-Ḥalabī's works not mentioned by Brockelmann	152
D. Works wrongly attributed to al-Ḥalabī by Brockelmann and others	162
CHAPTER IV - THE SOURCES OF THE <u>MULTAQĀ</u>	165
I <u>al-Mukhtaṣar</u>	166
II <u>al-Mukhtār</u>	172
III <u>Kanz al-Daqā'iq</u>	176
IV <u>Wiqāyat al-Riwāya</u>	180
V <u>al-Hidāya</u>	183
VI <u>Majma' al-Bahrayn</u>	188

CHAPTER V - THE MULTAQĀ 'L-ABḤUR

1.	Circumstances of its Composition	192
2.	Its Arrangement	193
3.	The Terminology of the <u>Multaqā</u>	196
I.	The Religio-Moral Terms	197
II	The Technical Legal Terms	199
III	The Terms of Validation and Invalidation	200
IV	The Terms of Qualification	201
V	Other Terms	204
4.	The Contents of the <u>Multaqā</u>	207
5.	Some Observations on the <u>Multaqā</u> and its Sources	210

CHAPTER VI - THE COMMENTARIES ON THE MULTAQĀ 219

CHAPTER VII - THE MULTAQĀ IN LEGAL SCHOLARSHIP

A.	The Contribution of the <u>Multaqā</u> to the Compilation of the <u>Majalla</u>	277
B.	The <u>Multaqā</u> as a Text-Book in the <u>Madrasas</u>	289
C.	The <u>Multaqā</u> as a Reference Book for <u>Qādīs</u>	297

Conclusion	312
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Bibliography	314b
--------------	------

Appendix A	337
------------	-----

Appendix B	346
------------	-----

<u>Kitāb al-Ṭahāra</u>	347
------------------------	-----

<u>Kitāb al-Ṣalāt</u>	364
-----------------------	-----

<u>Kitāb al-Nikāh</u>	383
-----------------------	-----

<u>Kitāb al-Sariqa</u>	402
------------------------	-----

<u>Kitāb al-Jināyāt</u>	409
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## Abstract

The name of Ibrāhīm al-Ḥalabī is well known to scholars of Ottoman jurisprudence as the author of the Multaqa'l-Abhur, probably the best known compendium of Hanafite law to be compiled during the Ottoman period, if not during the preceding centuries also. Despite the fame of al-Ḥalabī very little has been known of his career as a scholar or of his other writings, of which no bibliographical source has until now given a full and accurate list.

The present thesis aims to fill an important gap in our knowledge of Ottoman legal scholarship by undertaking a detailed study of al-Ḥalabī and his writings, with particular emphasis on the Multaqā.

The introduction contains a life of al-Ḥalabī based on all the somewhat scanty materials available, and a study of him as a scholar. Chapters one and two attempt to draw the social and scholarly background in which al-Ḥalabī lived and worked, in Mamluk Syria and Egypt and the Ottoman Empire respectively and which must have influenced his attitudes and the nature of his writings.

Chapter three comprises a detailed study of the works of al-Ḥalabī, with particular attention paid to the more important of these such as Ni'mat al-Dharī'a.

Chapter four studies the sources of the Multaqā, while chapter five is a study of the Multaqā itself. In this chapter the differences between the Multaqā and its sources are investigated and attention is drawn to the ways in which it might be regarded as superior to its sources. The chapter is divided into subsections dealing with the circumstances of its composition, its arrangement, terminology, contents, and some observations on its relationship to its sources.

Chapter six investigates the subsequent fortunes of the Multaqā as illustrated by the number of commentaries by later scholars which it attracted. The final chapter continues this study by dealing with three areas of particular importance, the contribution of the Multaqā to the Majalla, its use in the madrasas and its use by the qādīs and muftīs.

The thesis concludes with a bibliography and two appendices dealing with the Multaqā's contribution to the Majalla and a comparison of the Multaqā with its sources based on five representative chapters.

Abbreviations

<u>Badā'i'</u>	Ibn Iyās, <u>Badā'i' al-Zuhūr</u>
<u>Bâyezit,</u>	S. Tansel, <u>Sultan II. Bâyezit'in Siyasî Hayatı</u>
<u>CHI</u>	<u>The Cambridge History of Islam</u>
<u>Durr al-Habab,</u>	Ibn Ḥanbalī, <u>Durr al-Habab fī Tārīkh A'yān Ḥalab</u>
<u>EI<sup>1</sup></u>	<u>Encyclopaedia of Islam (1st edition)</u>
<u>EI<sup>2</sup></u>	<u>Encyclopaedia of Islam (2nd edition)</u>
<u>GAL</u>	Brockelmann, <u>Geschichte der Arabischen Literatur</u>
"Glimpses"	A. Schimmel "Some Glimpses of Religious Life in Egypt During the Later Mamlūk Period"
<u>H'A</u>	I. Baghdādī, <u>Hadiyyat al-ʿĀrifīn</u>
<u>İA</u>	<u>İslâm Ansiklopedisi</u>
<u>IC</u>	<u>Islamic Culture</u>
<u>IJMES</u>	<u>International Journal of the Middle East Studies</u>
<u>I'lām al-Nubalā'</u>	al-Ṭabbākh, <u>I'lām al-Nubalā' bi-Tārīkh</u>
<u>IS *</u>	<u>Ḥalab al-Shahbā'</u>
<u>JA</u>	<u>Journal Asiatique</u>
<u>Jawāhir</u>	Ibn Abi'l-Wafā', <u>Al-Jawāhir al-Mudiyya</u>
"Kalif und Kadi"	A. Schimmel, "Kalif und Kadi im Spätmittelalterlichen Ägypten"
<u>al-Kawākib,</u>	Najm al-Dīn al-Ghazzī, <u>al-Kawākib al-Sā'ira</u>
<u>al-Khiṭaṭ</u>	al-Maqrizī, <u>Kitāb al-Mawā'iz wa'l-I'tibār...</u>
* <u>IS</u>	Islamic Studies



<u>Khulāṣa</u>	al-Muḥibbī, <u>Khulāṣat al-Athar</u>
<u>KZ</u>	Ḥājjī Khalīfa, <u>Kashf al-Zunūn</u>
<u>KZZ</u>	İsmā'īl Baghdādī, <u>Kashf al-Zunūn Dhaylī</u>
<u>L'A</u>	Ibn Manẓūr, <u>Lisān al-'Arab</u>
<u>Medhal</u>	Uzunçarşılı, <u>Osmanlı Devleti Teşkilâtına Medhal</u>
<u>Mufākaha,</u>	Ibn Ṭūlūn, <u>Mufākahat al-Khillān</u>
<u>Mu'jam al-Mu'allifīn</u>	'Umar Riḍā Kaḥḥāla, <u>Mu'jam al-Mu'allifīn</u>
<u>MW</u>	<u>The Muslim World</u>
<u>al-Nujūm</u>	Ibn Taghrībirdī, <u>al-Nujūm al-Zāhira</u>
<u>'OM</u>	Muḥammad Ṭāhir, <u>'Uthmānli Mu'alliflari</u>
<u>Qāmūs al-A'lām</u>	Shams al-Dīn Sāmī, <u>Qāmūs al-A'lām</u>
<u>Qudūrī</u>	al-Qudūrī, <u>al-Mukhtaṣar</u>
Savvas Pacha	<u>Étude sur la théorie due Droit Musulman</u>
<u>Selim</u>	S. Tansel, <u>Yavuz Sultan Selim</u>
<u>Shadharāt</u>	Ibn al-'Imād al-Ḥanbalī, <u>Shadharāt al-Dhahab</u>
<u>Sh. N</u>	Ṭāshkūbrī-zāda, <u>al-Shaqā'iq al-Nu'māniyya</u>
<u>Sh. N (tr)</u>	Majdī's translation of the <u>Shaqā'iq</u>
<u>SI</u>	<u>Studia Islamica</u>
<u>Silk al-Durar *</u>	M. Thurayyā, <u>Sijill-i 'Uthmānī</u>
<u>S'O</u>	al-Qalqashandī, <u>Subḥ al-A'shā</u>
<u>Subḥ</u>	Qutlubūgha, <u>Tāj al-Tarājim</u>
<u>Tāj,</u>	'Ushāqī-zāda, <u>Dhayl al-Shaqā'iq</u>
<u>Tarājim **</u>	Ali Uğur's analysis of the <u>Vakā'i'ül-Fuzalā</u> of M. Şeyhī Ef.
<u>'UZ</u>	
<u>VF</u>	
<u>Wafayāt</u>	Ibn Khallikān, <u>Wafayāt al-A'yān</u>
* <u>Silk al-Durar</u>	M. Khalīl Murādī, 4 Vols. (1291-1301 <sup>A.H.</sup> ).
** <u>Tarājim al-A'yān</u>	H. b. Muḥammad al-Buraytī, Dimashq, 1959.

Note on Transliteration

In a work such as the present thesis which involves material in Arabic, Ottoman, modern Turkish and occasionally Persian, transliteration is bound to present particular problems, and consistency has in some cases proved difficult to achieve. Since the bulk of the material used in this thesis has been written in Arabic, all transliteration has been made in accordance with the system of Arabic transliteration employed by the University of Edinburgh. Thus for example we write Ṭāshkūbrī-zāda not Ṭāshköprü-zade, etc. In some cases however we have allowed ourselves a certain latitude for certain Turkish words and write for example Çiwī-zāda not Chīwī-zāda.

All geographical names are given in their modern form, and Anglicised forms have been adopted wherever possible.



## Foreword

Although the name of Ibrāhīm al -Ḥalabī is, by virtue of his authorship of the Multaqa'l-Abḥur, one of the best known in the field of Ottoman legal scholarship, no detailed study has until now been undertaken of the life and career of al-Ḥalabī, of his place in Ottoman legal history, or of his writings other than the Multaqā. Even the Multaqā has chiefly been studied, for example by Schacht,<sup>1</sup> more as a convenient reference-book for Hanafite law (which of course it is, this being precisely the reason for its prominence) than as a subject worthy of study itself. It will be the aim of this to shed some light on this hitherto shadowy figure and to demonstrate his importance as a teacher, writer and custodian and transmitter of the strict Ḥanafī tradition of earlier centuries.

One of the problems in undertaking a study of any Ottoman scholar of this period is the lack of biographical information. The main source is Ṭāshkūbrī-zāda's Al-Shaqā'iq al-Nu'māniyya. Virtually all the information to be found in other sources is to be found also in the Shaqā'iq; apart from this we have only a few lines from other sources of which the most important is Ibn al-Hanbalī's Durr al Ḥabab fī Tārīkh A'yān Ḥalab. The reader will readily realise the limited nature of this information on consulting the introductory section of this thesis, which incorporates all that is known of

1. See J. Schacht, An introduction to Islamic Law, p. 112 ff.

al-Ḥalabī's life. However, it is obvious that al-Ḥalabī did not live and pursue his studies in a vacuum, and by making a study of social and academic conditions in Syria, Egypt and Istanbul we hope that we have been able to give an account of the formative factors which must have helped to shape al-Ḥalabī as a man and a scholar.

Little work likewise has previously been done on al-Ḥalabī's writings. Brockelmann gives a fairly complete list of his works, although omitting seven works which the present study has been able to add to the list. In addition he has not realised that the Ḥalabī Kabīr and the Ḥalabī Ṣaghīr are identical with the Ghunyat al-Mutamallī in its long and short versions respectively. He attributes both of these works to a different Ḥalabī and seems to confuse them with one another.<sup>1</sup> On the other hand he misattributes the fairly important work Durrat al-Muwahhidīn to our Ḥalabī. The Ḥalabī Kabīr and Ḥalabī Ṣaghīr have both been printed, a facsimile edition of the latter having been produced recently with a brief introduction by Hasan Ege. None of al-Ḥalabī's other works, apart from the Multaqā, has been studied at all<sup>2</sup> and the present thesis makes an attempt to fill this gap in our knowledge. The Multaqā, although the subject of many commentaries in earlier centuries, has not been the subject of any modern study in itself, as opposed to its use as a source of legal information, and such a study is a major concern of the present thesis.

Likewise opinions have varied about the importance

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1. See p. 163 below.

2. With the exception of a brief notice on Ni'mat al-Dharī'a, see IC, 13, 1939, p. 446

of the Multaqā. Uncritical assertions of its fundamental importance have been handed down among orientalists from Von Hammer to Hitti, while more recently Y. Meron (see p. 299) has attempted to minimise the role of the Multaqā. Both views however have remained little more than unsupported assertions in the absence of any detailed study of the subject, and the present work will attempt to provide the basis for a balanced judgement on the subject. The final chapters of this thesis will seek to explore the importance of the Multaqā in the later Ottoman legal and educational systems down to the time of the promulgation of the Majalla, in which, as will be shown, the Multaqā with its commentaries was easily the most important single source.

"THE SULTAN RULES OVER THE TURKS, BUT THE KORAN  
AND THE MULTEKA RULE OVER THE SULTAN."

J. L. Farley, Turks and Christians,  
(London, 1876) p. 156.

# I N T R O D U C T I O N



A : The Biography of al-Ḥalabī

The sixteenth century saw the development of Ottoman education to its highest point, with the madrasas producing scholars whose fame has survived down to the present day. Notable among these were Zanbilli 'Alī Jamālī Efendī (d. 932/1525); Kamāl Pasha-zāda (873/1468-941/1534), the historian and author of numerous learned monographs; Muḥammad b. Pīr 'Alī Birgiwī (928/1522-981/1573), and Abū al-Su'ūd Efendī (896/1490-982/1574). The fame of the latter transcended the boundaries of the Empire into other Muslim lands, his work on tafsīr, Irshād al-'Aql al-Salīm, being particularly well-known. But probably more important was his achievement in harmonizing the secular law with the sharī'a.

Amongst such scholars Ibrāhīm al-Ḥalabī occupied a significant position, both as a teacher and a jurist, but above all as the author of the handbook of Hanafite law, Multaqa 'l-Abḥur. As indicated by his nisba, he was born in Aleppo, but the sources make no mention of his parentage.<sup>1</sup> Nor is the date of his birth recorded, but his contemporary,

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1. In the history of Ibrāhīm Peçewī (II, 35) he is referred to as Tātār Ibrāhīm Efendī, and this is probably the source for the same form of the name in S'0 (I, 94). This may have been due to some physical characteristic rather than an indication of his ethnic origins.



Ṭāshkūbrī-zāda says that he was over ninety years of age when he died in 956/1549, which would place it at about 866/1461 or earlier.<sup>1</sup>

Al-Ḥalabī's full name is Ibrāhīm b. Muḥammad b. Ibrāhīm.<sup>2</sup> He received his early education in Aleppo under various teachers of the period.<sup>3</sup> Although it is not explicitly stated in the sources, there is good reason for believing that he received his first instruction, in particular in hadīth, from Burhān al-Ruhāwī (d. 894/1488),

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1. ShN, II, 24; ShN (tr), p. 492. The Shaqā'iq is the main source for our information on al-Ḥalabī, but even this source yields very scanty details. The present biographical sketch incorporates all that is known of al-Ḥalabī's life.
  2. Some sources (e.g. al-Suyūṭī, al-Taḥadduth bi Ni'matillāh, p. 70, followed by J. Shacht, EI<sup>2</sup>, II, 90) add the title Burhān al-Dīn to his name, but Ottoman sources, e.g. his contemporary Ṭāshkūbrī-zāda, the main source of information about al-Ḥalabī's life, make no record of this. It may be that "Burhān al-Dīn" which is often found in association with the name Ibrāhīm, was a laqab which was only attached to his name in Egypt.
  3. ShN (tr), p. 492; Kawākib al-Sā'ira, II, 27.

who was a leading scholar on this subject at that period.<sup>1</sup> Another celebrated scholar who was teaching in Aleppo, alongside al-Ruhāwī, was the chief qādī Ibrāhīm b. Muḥammad (d. 882/1477). Al-Ḥalabī would almost certainly have attended the lectures of this well-known scholar, who is credited with the work entitled Lisān al-Ḥukkām fī Ma'rifat al-Aḥkām.<sup>2</sup> Another important contemporary scholar with whom al-Ḥalabī may have come into contact was Abū Dharr b. al-Ḥāfiẓ Burhān al-Dīn b. al-Qūf (d. 884/1479) an authority on ḥadīth, who is mentioned frequently as teacher of ḥadīth in Aleppo in biographies of the time.<sup>3</sup> Shams al-Dīn Sāmī states that he also attended lectures in Damascus.<sup>4</sup> After completing these studies he apparently was considered sufficiently educated to qualify as an imām and khaṭīb, and for some time he performed these functions in Aleppo.<sup>5</sup>

Being a young and ambitious scholar, al-Ḥalabī naturally wished to travel to the centres of Islamic learning to improve his knowledge in studies such as fiqh,

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1. For al-Rahāwī see Ibn al-Ḥanbalī, Durr al-Ḥabab fī Tārīkh A'yān Ḥalab, f. 7.
  2. See GAL, II, 42, SII, 115.
  3. See Shadharāt, VIII, 75.
  4. Qāmūs al-A'lām, I, 568.
  5. S'O, I, 94.

tafsīr, ḥadīth and qirā'a. It was towards the end of the ninth/fifteenth century that he decided to leave Aleppo for this purpose.

At that time Cairo was one of the most active centres of Islamic study, with attractive facilities for the student. Accommodation was provided in the various madrasas and riwāqs of al-Azhar, and many waqfs had been established for the maintenance of the residents. In Cairo, in addition to the schools of Mālik, al-Shāfi'ī and Ahmad b. Ḥanbal, a course in Hanafite law had been established at al-Azhar in 761/1359,<sup>1</sup> and here al-Ḥalabī would certainly have acquired his knowledge of this system of law as well as the other fields of Islamic studies.

Another fact which might have attracted al-Ḥalabī to Cairo was the number of madrasas there in the fifteenth and sixteenth centuries. As will be mentioned in the following chapter, al-Maqrīzī mentions at least seventy five such schools in fifteenth-century Cairo,<sup>2</sup> a number which may have been greater in the following century. The very number of these madrasas is enough to show the intensity of educational and intellectual activity, and this is certainly one of the reasons that the city attracted large numbers of students from all over the Muslim world.

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1. EI<sup>2</sup>, I, 813.

2. See p. 73 of this work.



A madrasa achieved its fame and importance through the quality of its teacher, and many students would follow their masters from one school to another. Some of these students had travelled long distances to benefit from these scholars, as, for instance, Ahmad Shams al-Dīn b. Ismā'īl, known as Mollā Gūrānī, who, during the reign of Murād II, journeyed to Cairo to study under the famous authority on ḥadīth, Ibn Ḥajar al-'Asqalānī.<sup>1</sup> The former actually became the Shaykh al-Islām during the reign of Muḥammad II. Having heard the lectures of a famous scholar and received a diploma (ijāza) to this effect was always an advantage in one's future career. In our author's case this famous scholar must have been the polymath Jalāl al-Dīn al-Suyūṭī, renowned during his lifetime and after for his studies on tafsīr and ḥadīth.

Another reason for al-Ḥalabī's departure to Egypt could have been the social, political and economical situation in Syria in general and Aleppo in particular, which often resulted in serious disturbances and fighting as will be seen in the following chapter. (See p. 21.) On al-Ḥalabī's journey to Cairo, Majdī elaborates the bald account in the Shaqā'iq al-Nu'māniyya:

After having received his early education  
from leading Arab scholars and reached a

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1. See J. Walsh, "Gūrānī Sharaf al-Dīn" in EI<sup>2</sup>, III, 1140.

stage of complete competence he travelled to Cairo.

Travel shows up the qualities of a man;  
His native land holds his house in bondage.  
As long as the gold is hidden in the ore  
Nobody can understand its value.<sup>1</sup>

During his stay in Cairo, al-Ḥalabī studied tafsīr, hadīth, fiqh, qirā'a and other branches of Islamic learning. He <sup>must have</sup> benefited to a great extent from the lectures of al-Suyūṭī, who at that time was teaching in the Khānqāh al-Shaykhūniyya and in the Baybarsiyya after 891/1486.<sup>2</sup> Al-Suyūṭī mentions al-Ḥalabī's name in a long list of scholars who were concerned with hadīth.<sup>3</sup>

At the beginning of the sixteenth century Istanbul was also an important centre for Islamic studies and culture. Although only half a century had elapsed since its conquest by the Ottomans, many religious and educational institutions were already flourishing there. Among these was the madrasa of Aya Sofya, established in 857/1453, the madrasa of Mollā Gūrānī, built in 889/1493, and the kulliyya of Fātiḥ, completed in 875/1470.

In the Ottoman capital Muslim scholars enjoyed particular marks of favour from the sultans and were highly respected by all the people. They could achieve such

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1. ShN (tr), p. 492.

2. īA, XI, 258.

3. al-Taḥadduth bi Ni'matillāh (ed. by E.M. Sartain) p.70.

important positions as professorships in the great schools, qādīships of wealthy cities, the office of Qādī 'askar, and ultimately that of Shaykh al-Islām, in which capacities they often exercised influence over the sovereign himself. Mention could be made of the regard shown by Muḥammad II to Aḥmad Aqshams al-Dīn, by Salīm I to 'Alī Jamālī Efendī and by Sultan Sulaymān to Abū al-Su'ūd Efendī.

After completing his studies in the above-mentioned Islamic sciences al-Ḥalabī chose Istanbul as his residence, where he would put his learning to practical application. Since all the sources are agreed that he lived there more than fifty years, his arrival must have been about 906/1500 or a little earlier.<sup>1</sup> Thus, he would have witnessed

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1. Ya'akov Meron (L'obligation alimentaire entre époux en droit musulman Hanéfite, p. 10) without mentioning his sources states that Ibrāhīm al-Ḥalabī's departure to Istanbul was after the conquest of the Arab provinces in 1516-17, when, as he puts it, "the road was open to the Hanafite jurists of Egypt to Anatolia." In the light of information given in reliable sources (e.g. ShN, II, 24) Meron's suggestion proves to be wrong, and at his suggested date of 1517, al-Ḥalabī had already completed the compilation of the Multaqa 'l-Abhur (see p. 193 ). C. Baltacı (Osmanlı Medreseleri, p. 610) erroneously states that al-Ḥalabī went to Istanbul from Aleppo, held the posts of khatīb and mudarris therein, then went to Egypt and returned to Istanbul after completing his studies.



the reigns of three sultāns: Bāyazīd II (1481-1512), Salīm I (1512-1520), and Sulaymān I (1520-1566).

In Istanbul al-Ḥalabī held the post of imām and khaṭīb in various mosques until finally he was appointed to the same post in the Fātiḥ Mosque,<sup>1</sup> the largest and most highly endowed at that period. In an Arabic verse, Majdī describes it as follows:

It was so beautiful and charming that it seemed as if its pillars were based on the heavens.<sup>2</sup>

In this position al-Ḥalabī distinguished himself by his learning in the Arab and Islamic sciences, and by the scope of his memory, so that the historian Peçewī reports:

Al-Shaykh Tātār Ibrāhīm Efendī used to preach in the mosque of Sultān Muḥammad Khān and used to recite the commentary of the Holy Qur'ān by heart.<sup>3</sup>

Muḥammad Rāghib Ṭabbākh says of him that he knew the problems of furū' "better than the pupils of his own eyes",<sup>4</sup>

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1. This mosque was a part of the above-mentioned kulliyya of Muḥammad Fātiḥ, the Conqueror, on it see Ḥāfiẓ Ḥusayn b. al-Ḥajj Ismā'īl al-Aywānsarāyī, Ḥadīqat al-Jawāmi', pp. 8-10
  2. ShN (tr), p. 492.
  3. Tārīkh-i Peçewī, II, 35.
  4. I'lām al-Nubalā', V, 569.

while in Q A it is stated without mentioning a source, that even the 'ulamā' of the period used to attend his lectures (I, 568).

Both in his learning and his professional activities, al-Ḥalabī was a notable example of what was best in the Islamic intellectual life of the period; and in addition his private life was marked by piety and righteousness.

The regard in which he was held by his contemporaries gave him a special position in the learned circles of the city, and even though he seldom left his own house he still maintained contact with other scholars and was frequently presented with the works which they wrote so that his comments might be profited by. The father of Ibn al-Ḥanbalī,<sup>1</sup> on a visit to Istanbul, presented him with a copy of his son's work entitled al-Fawā'id al-Sariyya fī Sharḥ al-Jazariyya and al-Ḥalabī wrote a comment in which he spoke with praise of the book and its author.<sup>2</sup>

In al-Kawākib al-Sā'ira mention is made of the visit to Istanbul of the Damascene scholar Badr al-Dīn al-Ghazzī, who in the account of his travels entitled al-Maṭāli' al-Badriyya, speaks of having met al-Ḥalabī on many occasions and of the great affection they felt for each other. From him he received works of his own composition

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1. He is Raḍī al-Dīn Muḥammad b. Shaykh Ibn al-Ḥanbalī (d. 1563) the author of Durr al-Ḥabab fī Tārīkh A'yān Ḥalab. On him see GAL, II, 368.

2. See Durr al-Ḥabab, f.13.b.

and of other Ottoman scholars, such as Khayr al-Dīn Khidr's commentary on the Burda, and another commentary on Āyat al-Kursī.<sup>1</sup>

Al-Ḥalabī was well versed in Hanafite works, both those done in the Empire and outside. He compiled a selection of extracts from the Fatāwā Tātārkhāniyya, which was compiled by the order of Tātārkhān (d. 752/1351).

Ibrāhīm al-Ḥalabī had a close friendship with Sa'dī Chalabī (d. 945/1538-39), who was a mudarris in various madrasas in Istanbul, Eđirne and Bursa, and qādī of Istanbul for eight years, finally becoming Shaykh al-Islām after the death of Kamāl Pasha-zāda in 940/1533. While qādī of Istanbul, Sa'dī Chalabī used to depend on al-Ḥalabī in difficult cases of law.<sup>2</sup> As a result of this close friendship al-Ḥalabī was appointed mudarris in the Dār al-Qurrā'<sup>3</sup> which was built by Sa'dī Chalabī in Istanbul.

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1. See al-Kawākib al-Sā'ira, II, 77. He calls al-Ghazzī Shaykh al-Islām al-Wālid, on whom see, also, GAL, II, 360.

2. al-Kawākib, II, 77; Durr al-Ḥabab, f. 13b.

3. These institutions constitute a part of <sup>the</sup> Islamic and Ottoman educational system. They were mainly devoted to the study of readings of the Qur'ān (qirā'a) and correct enunciation ('ilm makhārij al-ḥurūf). In the late 16th century there were eight Dūr al-Qurrā' in Istanbul but only half of this number existed during al-Ḥalabī's time. See Baltacı, op. cit., pp. 22-24 and 607-611.

The building itself was the work of the famous architect Sinān and has significance in this respect.<sup>1</sup> As far as we know, al-Ḥalabī was the only mudarris of the Dār al-Qurrā' and he held this post until his death in 956/1549 in Istanbul, when, according to his contemporary Ṭāshkūbrī-zāda, he was more than ninety years of age. He is buried in the vicinity of Amīr Bukhārī, at Edirnekapı in Istanbul.<sup>2</sup>

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1. Ibid., p. 609.


2. Savvas Pacha (I, 159) erroneously states that he was buried in the city of Edirne.



B. Al-Ḥalabī as a Scholar

As a member of the 'ulamā' of this period al-Ḥalabī surely was not writing without reference to daily events. He occasionally uses the term ahl al-sunna wa'l-jamā'a in his treatises. Although our task of ascribing a specific cause or a particular event as an impetus for the composition of most of his treatises is frustrated by lack of any sure information as to the date of composition, we can see that al-Ḥalabī was also placed under the tacit obligation of protecting the sharī'a and the creed of ahl al-sunna. Therefore, in many of his writings our author shows himself as a strict follower of Orthodox tradition in regard to many religious issues which were fervently discussed in the society, such as the permissibility of samā' and raqs, the belief of the Pharaoh and the doctrine of Ibn 'Arabī.

Despite the existence of many moderate views<sup>1</sup> found in his society, on most of these matters al-Ḥalabī expresses extreme opinions. He supports the view that Pharaoh died

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1. For example, Muḥammad b. Ṣalāḥ b. Jalāl, known as al-Lārī (d. 979/1571), followed a relatively moderate line, holding that the use of instruments like the flute and tambourine in a samā' gathering (mahfil al-samā') was permissible, but  the twisting of the body was not. See M.K. Alawī, al-Lārī's <sup>of</sup> commentary on Arba'in-Nawawī, (Ph.D. Thesis, Edinburgh, 1979) I, 122.

an infidel and strongly criticises the advocates of the opposite claim, accusing them of ignoring the Qur'anic text. He seems to have taken every opportunity to express the orthodox views on various topics and to defend them when necessary. For example, he quotes Ibn 'Arabī's statement on the Caliphate:

"... then the Prophet died leaving no nass or recommendation for a successor, since he knew that anybody among his companions would be suitable..."

Al-Ḥalabī rejects this suggestion, which undermines Abū Bakr's position, and states:

"The Prophet did not leave any nass about the Caliphate, knowing that Allāh was going to unite the hearts of believers in the Caliphate of Abū Bakr."<sup>1</sup>

In another case, when he attempts to refute Ibn 'Arabī's explanation of the Qur'anic verse 11:107,<sup>2</sup> his criticisms of ahl al-sunna and his views on "free will" al-Ḥalabī speaks sharply and suggests that the statement of Ibn 'Arabī is an attack on ahl al-sunna and he is unjustifiably wrong. He then gives the Orthodox view on the problem.<sup>3</sup>

On the matter of qadar, al-Ḥalabī again follows the

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1. See Ni'mat al-Dharī'a, f. 77.

2. " ... Lo! Thy Lord is Doer of what He will."

3. Ni'mat al-Dharī'a, f. 5.



strict sunnite view represented by the Ash'arites, rejecting the explanation of the Mu'tazilites. For holding a different view from the Orthodox one, Ibn 'Arabī not surprisingly comes under al-Ḥalabī's attack:

" ... when somebody wants to act he needs the power from God, but you are thinking like the Mu'tazilites."<sup>1</sup>

Al-Ḥalabī's high regard for the creed of ahl al-sunna led him into criticising the views of opposite groups and branding them as heretics. As has already been noted, one of the targets was the Mu'tazilites. For example, on the principle of "unity",<sup>2</sup> advocated by Mu'tazilites, our author comments:

" ... there are two groups; both claim exaggeration in oneness (of God, tawḥīd) but they both committed polytheism (shirk). One of these groups is the Mu'tazilites, who call themselves people of monotheism and

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1. Op. cit., f. 9. The root of this conflict is summarised by Professor Watt thus: "In his creeds al-Ash'arī asserts that human acts are created by God and that man has no power to act before he in fact does so - a non-technical way of stating that 'the power is along with the act' (al-istitā'a ma'a l-fi'l) in contrast to the Mu'tazilite view that 'the power is before the act.'" See The Formative Period of Islamic Thought, p. 315.

2. On this see Watt, op. cit., p. 242.

justice, and they hold that everybody creates his own act."

Al-Ḥalabī seals his view with a deadly accusation:

"They, the Mu'tazilites, also claim that God does not create man's actions. This is sheer polytheism."<sup>1</sup>

Although his treatises and main works on various topics demonstrate his profound knowledge of theology, linguistics, rhetoric, ḥadīth and Qur'anic sciences, through the Multaqā he displays his deep knowledge and expertise in fiqh. His contemporaries, for example Ṭāshkūbrī-zāda, praised him as a mufasssīr and a muhaddith but special emphasis was laid on his quality as a faqīh.<sup>2</sup>

Even a brief survey of his writings attests al-Ḥalabī's deep commitment to scholarship and his comprehension of almost all the sources available particularly in fiqh. As has been pointed out, al-Ḥalabī was in touch with many scholars living outside the capital and scholarly exchanges took place between them. For example, he speaks of frequent correspondence taking place between him and a certain 'Abd Allāh al-Adkārī, who may have been one of al-Ḥalabī's old colleagues in Egypt.

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1. Ni'mat al-Dharī'a, f. 14.

2. "وكان له يد طولی فی الفقه و الاصول و كانت مسائل  
Shaqā'iq, loc. cit. " الفقه نصب عينیه

Al-Ḥalabī is justifiably included by Hammer among the ten jurists of Sultan Sulaymān, the tenth of the Ottoman sultans. These jurists are: Kamāl Pasha-zāda, Abū al-Su'ūd, Ibrāhīm al-Ḥalabī, Ṭāshkūbrī-zāda, Ṣāliḥ Jalāl-zāda, Ḥāfiẓ 'Ajam, al-Lārī, Birgiwī, Khayr al-Dīn and Surūrī.<sup>1</sup>

Our author combined the qualities of an ascetic with those of a scholar. While drawing his reader's attention to al-Ḥalabī's piety and his gentle and kind nature, Ṭāshkūbrī-zāda emphasises his subject's life style and says:

"One could only see him either at his home or on the way to the mosque; he enjoyed nothing but worshipping and acquiring knowledge."<sup>2</sup>

His asceticism and piety are marked not only by his devotion to worship and prayer but also by his strict observances of certain principles in his everyday life:

"When he walked along the street, he often used to close his eyes [in order to avoid committing sin by looking at ḥarām] and he would not listen to idle talk."<sup>3</sup>

Having studied under scholars of great repute, such as Jalāl al-Dīn al-Suyūṭī, he enjoyed a unique position in academic circles of the capital and it is particularly

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1. See Hammer, Histoire de l'empire Ottoman, VI, 240.

2. Shaqā'iq, loc. cit.

3. Ibid., loc. cit.



noted in biographical sources that he had studied in Cairo.<sup>1</sup> Shaykh al-Islām → Sa'dī Chalabī's reliance on al-Ḥalabī in difficult cases of fatwā is recorded, in the sources, as a credit to the latter's scholarship.<sup>2</sup>

Despite the fact that he was a strict follower of the Hanafite rite, he seems to have been tolerant towards other Orthodox rites and → in certain circumstances he permits non-Hanafite practices.<sup>3</sup> In his writings he often makes references to the scholars of the other three rites.

It should, however, be noted that al-Ḥalabī adopts an extremely intolerant approach towards certain practices, such as raqs, samā' and the theory of wahdat al-wujūd. Many of his views on these subjects bear a resemblance to those of Ibn Taymiyya.<sup>4</sup> Although it is quite possible that al-Ḥalabī during his education in Syria and Egypt may have been influenced by Ibn Taymiyya's teachings, there is no direct evidence for this, nor does al-Ḥalabī make any mention of Ibn Taymiyya in his works. No doubt in his opposition to sufis he was not alone, indeed, he was overshadowed by Ḡiwi-zāda who persistently gave fatwās

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1. See Shaqā'iq, loc. cit., I'lām al-Nubalā', V, 569.

2. I'lām al-Nubalā', loc. cit.

3. See Risālat al-Himmaṣa, p. 154

4. For Ibn Taymiyya's views on these, see N. Aliyu, Ibn Taymiyya's Attitude towards Sūfism and his Critique of Ibn al-Arabī's Mystical Philosophy, unpublished Ph.D. thesis, Edinburgh University, 1981.

declaring Ibn 'Arabī and Jalāl al-Dīn Rumī heretics.<sup>1</sup> This contrasts with the attitude of many of his celebrated contemporaries, such as Abū al-Su'ūd and Kamāl Pasha-zāda, who adopted a more lenient position towards certain sufistic practices and avoided contradicting the views of those in authority who were favourably inclined towards the sufis.<sup>2</sup> There is a significant resemblance between the approaches of al-Ḥalabī, Birgiwī and Çiwi-zāda towards the above-mentioned practices and they seem aimed at protecting the sharī'a from innovations and at safeguarding the creed of the ahl al-sunna. On the question of Ibn 'Arabī, our author certainly opposed the official view of the sultan (Salīm I), who had demonstrated his great reverence for the mystic by restoring his tomb on his way back from Egypt. The dismissal of Çiwi-zāda from his post as Shaykh al-Islām is said to have resulted from his views against Ibn 'Arabī.<sup>3</sup> It may be suggested that, had al-Ḥalabī not taken such a line which was unpopular with the government, his talents might have been rewarded by a higher position amongst the 'ulamā'. As it was, although he never fell out of favour, he never achieved a high rank either.

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1. See H.G. Yurdaydın, İslām Tarihi Dersleri, p. 114.

2. See for example, Kamāl Pasha-zāda's Fatāwā fī Haqq Ibn 'Arabī (Süleymaniye, Es'ad Ef. Ms. nu. 1694/3) where he defends Ibn 'Arabī and describes him as al-Shaykh al-Akbar.

3. For a discussion of this event see p. 103-4 below.



## **CHAPTER I**

### **HISTORICAL BACKGROUND TO AL-HALABI'S LIFE AND CAREER IN THE MAMLUK KINGDOM**

As has been stated in the introduction, al-Ḥalabī was born about 866/1461 or earlier, a period which coincides with the reign of Sultan al-Zāhir Khoshqadam who was enthroned in Ramaḍān 865/June 1461.<sup>1</sup> In order to understand al-Ḥalabī's scholarship fully, and appreciate the intellectual atmosphere in which he was brought up, it is necessary to highlight certain aspects of the social, political and religious conditions in late Mamluk<sup>2</sup> Syria and Egypt.

The Mamluk state (1250-1517) exhibited many idiosyncratic characteristics which are already sufficiently well-known. These peculiarities arose from the nature of the Mamluk state itself, being ruled as it was by a military élite of slave origin. The sultan was the head of the state, and beneath him came officers of various ranks, who were given the title of amīr, and then came the rank and file of the army, the mamluks in the service of the sultan and of

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1. See Ibn Iyās, Badā'i' al-Zuhūr fī Waqā'i' al-Duhūr, Ed. M. Muṣṭafā, Wiesbaden, 1972) II, 378. (Hereinafter cited as Badā'i'.)
  2. The word "mamluk" will be written with an initial capital M when it refers to the dynasty, but it will be written with an initial small m when it is used in its basic sense of "a slave".

the amīrs.<sup>1</sup> Although there are other examples in Islam of states <sup>which</sup> depended on armies formed of and commanded by slaves, or of states founded by slaves, such as those of the Ghaznawids, Tulunids, Zangids etc., one main difference gives the Mamluk state its unique nature. This is the non-hereditary nature, with a few exceptions, of the sultanate, in contrast to the other states mentioned where rule passed from father to son or sometimes to the brother. In the Mamluk state only mamluks were eligible for full membership of the military aristocracy, and only recruits freshly acquired in the Mamluk homelands (mainly in the Caucasus, although some had Mongol, Turkish, or even Greek origins) had mamluk status. Thus the children of the mamluks could not succeed to their fathers' positions, and the result was a unique non-hereditary ruling caste with no real racial or cultural connection with the empire over which they ruled. The mamluks remained aloof from the population over whom they ruled and never seem to have identified themselves with or assimilated themselves to the bulk of the population, to whom they in turn remained an alien and unrelated element who had little relevance to the religious and scholarly life of the region. The major scholars of the period went their own way with little reference to the Mamluks, and to a great extent may be seen as the representatives of the

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1. See E.M. Sartain, Jalāl al-Dīn al-Suyūṭī, (Cambridge, 1975) I, 1.

general population of the kingdom, who may have compromised with the mamluks but also acted as a bridge between rulers and ruled. The gulf between the Mamluks and their subjects, in addition to military and economic difficulties and extortionate taxation, often resulted in violent demonstrations, protests and assaults against officials. This dissatisfaction was felt even more strongly in Syria, especially in Aleppo, since it was also exposed to Turcoman and Aq Qoyunlu attacks. Although Damascus was more secure against foreign attacks, it also suffered from internal disturbances.

The series of Mamluk expeditions into Anatolia between 1465-1473 meant heavier taxes on the population. When they began confronting the Ottomans directly between 1485 and 1491 the pressure on the Syrians especially increased greatly. Lapidus gives several examples of disturbances in Aleppo, Damascus and Ḥamā in the years 1449, 1461, 1475, 1477, 1479, 1484, 1493 etc.<sup>1</sup> Another example of fierce fighting between mamluks and the common people is reported by Ibn Iyās, who states that in 896/1490-91 in the course of clashes between the people and the mamluks of Amīr Ozdamir about fifty people and seventeen mamluks were killed.<sup>2</sup> Ibn Ṭūlūn gives this

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1. See I.M. Lapidus, Muslim Cities in the Later Middle Ages (Cambridge, Mas. 1967) pp. 89, 36 and 151, 152 88-89, 150, 151 respectively.

2. See Badā'i, III, 284.



number as one hundred, and twelve respectively.<sup>1</sup>

Similar disturbances, though to a lesser extent, took place in Cairo. The deterioration in the society and increase of zinā', sodomy, drinking alcohol, "eating" <sup>the</sup> interest, and 'mamluk's oppression of the people are noted by the historians and some even suggested that these were the reason for the plague which started in 897/1491-92 in Egypt.<sup>2</sup>

The isolation of the mamluks from their subjects may be regarded as a weakness inherent in the political system, and in addition the mamluks were by no means united among themselves. They were divided on the basis of their original homelands (Turks against Circassians, etc.) and by rivalries among the followers of past and present sultāns. The majority of the population had no say in the election of the sultan, who was chosen by the amīrs after his predecessor's death or deposition. This appointment had to be confirmed by the caliph and witnessed by the four chief qādīs representing the four orthodox rites of Islam.

The sultan performed a judicial function of great importance. He used to hear petitions and attend hearings

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1. See Shams al-Dīn Muḥammad b. Ṭūlūn, Mufākahat al-Khillān fī Ḥawādith al-Zamān, (Ed. M. Muṣṭafā, Cairo, 1932) I, 141. (Hereinafter cited as Mufākaha.)
  2. See Badā'i, III, 287.

of major legal cases, which generally took place in the Dār al-‘Adl.<sup>1</sup> "As a Muslim," to quote Holt, "he was as much bound by the Holy Law of Islam as any of his Muslim subjects, although the absence of means to compel his submission to sharī‘a deprived this concept of effective sanctions. The caliph and the four chief judges, who headed the official administration of the Holy Law, deferred to reason of state and the reality of power by validating actions which they could not oppose and decisions which they could not upset."<sup>2</sup> The practice of the sultan within the limits of the sharī‘a naturally varied from one sultān to another, depending on their religious education, their reverence for the Holy Law and also on their temperament. We occasionally see in the chronicles that the sultan's punishments of criminals are so severe that he may well be regarded as having transgressed the limits of the sharī‘a. For example, in 880/1475 Sultan Ashraf Qāyrbāy issued a decree ordering the amputation of the hand of a mamluk who had stolen several times. Some of the amīrs tried to intercede for him but this backfired and made the sultan so angry that he ordered

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1. For its history and functions see J.S. Nielsen, "Mazālim and Dār al-‘Adl under the Early Mamluks", [in MW, 66 (1976)] p. 123.
  2. P.M. Holt, "The Position and Power of the Mamlūk Sultan" [in BSOAS, 38 (1975)] p. 246.

the amputation of the two feet of the mamluk as well.<sup>1</sup> This and similar acts cannot be regarded as being within the limits of the sharī'a and cannot be justified by any religious ruling. Another example can be seen in the decisions of the sultāns ordering the castration of criminals for crimes such as "indecent" acts with mamluks or committing zinā' etc. In fact in Islamic law castration is not a prescribed punishment and on the contrary it is condemned.<sup>2</sup> It may be suggested that the sultāns resorted to this kind of severe punishment in order to cut down the number of crimes, to maintain law and order and also to show their power and will. However, these excessive measures are always justified in one way or another, either by treating it under 'urf (established custom) or deriving it from the sovereign's siyāsa, namely "the prerogative of the head of the state to set aside the sharī'a, to supplement it and to influence its interpretation and application,"<sup>3</sup> or, as it would appear in practice, "the ruler's unlimited prerogative of exercising discretionary justice."<sup>4</sup> Of course, in all cases the ostensible aim is to keep law and order in society, to protect the state institutions from corruption and, most important of all, to preserve the Holy Law or sharī'a. We can cite a few

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1. Ibn Iyās, Badā'i', III, 218.

2. For a tradition to this effect see Abū Dāwud, Sulaymān b. al-Ash'ath, Sunan Abī Dāwud (Cairo, n.d.) IV, 176.

3. Nielsen, op.cit. p.123

4. Ibid.



examples to illustrate the nature of the crimes which might be brought before the sultan and his power and role in issuing or approving the judgments and punishments. In 871/1466 one of the mamluks of the sultan killed a person by beating him for no reason, or because some pieces of natron had been thrown at him. The sons of the murdered person took the matter to the sultan who ordered the mamluk to pay one thousand dīnārs to them.<sup>1</sup> In 853/1449 we witness a very rare case, a punishment of a person who was alleged to have become a zindīq and worshipped fire. The sultan started an investigation of the case. Although some qādīs declined to declare him an infidel, one of the Malikite nā'ibs did so and the person, named al-Sharīf Asad al-Dīn Muḥammad was executed.<sup>2</sup> In 876/1471 the sultan issued a decree enforcing the hanging of a female and a male slave who had killed their master. They were displayed on two

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1. See Badā'i, II, 445.

2. See Badā'i, II, 271. In fact the accusation against Asad al-Dīn seems to be spurious for two reasons. Firstly, the refusal of some qādīs, including the Malikite chief qādī Badr al-Dīn Tansī, to declare him an infidel, and secondly people's disapproval of the execution make us believe that the real reason behind this execution was something else; i.e. the sultan's large loan to Asad al-Dīn to enable him to undertake an alchemical enterprise at the end of which he produced nothing and caused the sultan loss of money and embarrassment. See ibid.



camels in the streets of Cairo and then hanged.<sup>1</sup> A couple of years before, in 872/1467, a person who stole the cover of the coffin of Imām al-Layth b. Sa'd had his hand amputated by the decree of the sultān.<sup>2</sup> Many of the discretionary punishments consisted of displaying the condemned person on horseback or donkeyback in the streets of the town, beating, imprisoning, or sometimes all of them. For example, in 895/1489-90 several complaints were made to the sultān about the qādī of al-Wāḥ, who was summoned by the sultan, then beaten with sticks before him, and imprisoned after being displayed in Cairo on donkeyback.<sup>3</sup> All of these cases illustrate the way in which it was possible for the sultan to bypass or overrule the normal judicial process, and his importance as a final authority in questions of law.

The sultan's power and authority were delegated to provincial officers directly appointed by the sultan and directly responsible to him. Although each of these officers bore the title nā'ib al-saltāna, they were not of equal standing. Highest among them was the vicegerent in Egypt, followed by the governor of Damascus then by those of Aleppo, Tripoli, Ḥamā, Ṣafad and al-Karak in that order.<sup>4</sup> The nā'ib al-saltāna had wide-ranging powers. He could

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1. Badā'i', III, 70.

2. Ibid., III, 17.

3. Ibid., III, 269. For a similar event see also p. 273.

4. See Holt, op. cit., p. 237.

sign applications for fiefs in the name of the sultan, appoint amīrs and office holders (except the highest ones) etc.<sup>1</sup> After the abrogation of the office of nā'ib al-saltāna, the atābak performed these duties with more authority. Then followed other office holders such as the ra'īs al-nawba (chief of the corps of mamluks), the amīr silāh (grand master of the armour), the amīr majlis (lord of the audience), etc. Al-Qalqashandī enumerates these offices as twenty-five.<sup>2</sup> Naturally this number in the provinces was less than it was in Cairo. In addition to the nā'ib al-saltāna in the above-mentioned provinces each citadel (qal'a) had its own commander (nā'ib al-qal'a), who was also appointed by the sultan and responsible only to him. The nā'ib al-saltāna and the nā'ib al-qal'a were completely independent from each other. In fact "the powers of the governor (nā'ib al-saltāna) and his ability to revolt against the central authorities were greatly reduced by the fact that the fortress (qal'a) of his own

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1. D. Ayalon, "Studies on the Structure of the Mamluk Army, III" (in Studies on the Mamluks of Egypt, London, 1977), p. 57.
  2. See Abū al-'Abbās Aḥmad b. 'Alī al-Qalqashandī, Subḥ al-A'shā fī Ṣinā'at al-Inshā (Cairo, n.d.), IV, pp. 16-22 (hereinafter cited as Subḥ). See also Gaudefroy-Demombynes, La Syrie A l'époque des Mamelouks (Paris, 1923), pp LV-LXIV and Ayalon, op. cit., pp. 57-66.

capital was completely independent of him."<sup>1</sup> The nā'ibs were the highest ranking amīrs in the category of arbāb al-suyūf, men of the sword.<sup>2</sup> In this short introduction a brief account of the arbāb al-wazā'if al-dīniyya (holders of religious offices) will also be given in order to shed some light on the general religious life. Before this, however, some information about the caliph and his position in society will be helpful to determine the place of the religious authorities in state affairs and the extent of their influence on the rulers or vice versa.

As is well-known, after the death of the last Abbasid caliph, al-Musta'ṣim billāh, in Baghdad at the hands of Mongols in 1258, Sultān Baybars achieved a victory over the Mongols at 'Ayn Jālūt in September 1260, which was to

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1. See D. Ayalon, "Discharges from Service, Banishments and Imprisonments in Mamluk Society" (in The Mamluk Military Society, London, 1979) p. 47.
  2. The office-holders in the Mamluk kingdom were generally divided into three categories: 1) Arbāb al-Suyūf, men of the sword, those who belonged to the Mamluk caste, 2) Arbāb al-Aqlām, men of the pen, those who were civilians and held administrative offices, 3) Arbāb al-Wazā'if al-Dīniyya, holders of religious offices. See Ayalon, "Studies on the Structure of the Mamluk Army III", p. 57.



be followed by a chain of successes against the Mongols and rebellious rulers of Damascus, Gaza etc. Sultān Baybars wanted to consolidate his position further by winning religious support through re-establishing the caliphate. Therefore in Rajab 659/June 1261 an Abbasid prince, Abu'l-Qāsim Aḥmad, who had fled from Baghdad, was solemnly proclaimed in Cairo as caliph, with the regnal name of al-Mustansir billāh, after his genealogical claims had been examined by the jurists. The sultan took the oath of allegiance to the new caliph and sent letters to the cities of the Empire announcing the new accession and gave orders to mention the new caliph's name in the Friday prayer and inscribe it on the coinage.<sup>1</sup> In return, the sultan's services were recognised by the caliph and he was made the sultan of Islām and thus the allegiance of all Muslim subjects became a religious obligation. Through securing the allegiance of the Sharīf of Mecca, the sultan and the Mamluk regime also gained all the advantages in prestige and influence accruing from the protection of the Holy places and control of the pilgrimage. A new title, "Khādim al-Ḥaramayn" (Servant of the Two Holy places), symbolized this authority.<sup>2</sup>

The power and authority of the caliph during the

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1. Bernard Lewis, "Egypt and Syria" (in The Cambridge History of Islam, vol. I.A. Ed. P.M. Holt, A.K.S. Lambton, B. Lewis, Cambridge, 1970), p. 216.

2. Ibid.

Mamluk period cannot be compared with that of the Abbasid caliphs, since the former had almost no power, but only performed a few ceremonial functions, such as being present at the new sultan's enthronement in order to acknowledge his position and legalize his power,<sup>1</sup> and visiting the sultan at the beginnings of the months and year to offer his good wishes<sup>2</sup> and occasionally attending religious ceremonies such as the mawlids.<sup>3</sup> Although their names were mentioned in the khutbas, they did not exercise any influence on state affairs. However, their names and positions were used by the sultans to execute their own decisions more easily. The sultan had the power to dismiss the caliph as long as he could justify it by obtaining a fatwā from one of the qādīs. We note an outstanding example of this practice; in 859/1454-55 he dismissed the caliph and legalized this by a statement from the Shafiite qāḍi'l-quḍāt 'Alam al-Dīn al-Bulqīnī, who said:

"Some members of the 'ulamā' of my rite reported that the sultan has the right to

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1. For examples see Badā'i', II, 64, 71, 191, 198, 370, 378, III, 4.
  2. Ibid., III, 85 and A. Schimmel, "Kalif und Kadi im Spätmittelalterlichen Ägypten" (in Die Welt des Islams, 24, 1942), p.40
  3. See Badā'i', III, 216.

dismiss the caliph and appoint somebody else."

Despite the silence of the other qādīs the sultan carried out his decision, and only the kātib al-sirr<sup>1</sup> stood up and said:

"We witness against you, O our sovereign sultan, that you have dismissed the caliph Ḥamza and appointed his brother al-Jamālī Yūsuf," upon which the sultan simply said "Yes."<sup>2</sup>

In spite of the low respect shown to the caliph by Mamluk sultans<sup>3</sup> however, some other rulers from India and central Asia held him in high esteem. On several occasions they expressed their recognition of the caliph, asked him

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1. The private secretary who wielded considerable power. For his functions see Ṣubḥ, V, 464, Gaudefroy-Demombynes, op. cit., p. LXIX and Taqī al-Dīn Aḥmad b. 'Alī 'Abd al-Qādir b. Muḥammad, known as al-Maqrīzī, Kitāb al-Mawā'iz wa'l-I'tibār bi-Dhikr al-Khiṭaṭ wa'l-Āthār (Cairo, 1270 H) II, 225. (Hereinafter cited as al-Khiṭaṭ.)
  2. Badā'i', II, 328-29.
  3. A. Schimmel, "Some Glimpses of Religious Life in Egypt During the Later Mamlūk Period" [in IS, 4 (1965)] pp. 354-55. (Hereinafter cited as "Glimpses".)



to legalize their power and sent him presents.<sup>1</sup> As an exception one caliph also became the sultan and exercised the powers of both. Due to the fact that there was no other power above him, this particular caliph acted like earlier caliphs, but this lasted only for six months.<sup>2</sup>

### HOLDERS OF THE RELIGIOUS OFFICES

The holders of the religious offices in the Mamluk kingdom performed wide ranging duties covering law, education, and some areas of administration. Traditionally they are divided into two groups.<sup>3</sup>

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1. See Badā'i', II, 65; İ.H. Uzunçarşılı, Osmanlı Devleti Teşkilâtına Medhal, (Istanbul, 1941), pp. 343-44.
  2. This was the caliph al-Musta'in billāh al-'Abbās, who took over the function of sultan when the sultan al-Malik b. Nāṣir Faraj was imprisoned in 815/1412. See Jamāl al-Dīn Abu 'l-Mahāsin Yūsuf b. Taghrībirdī, al-Nujūm al-Zāhira fī Mulūk Miṣr wa'l-Qāhira, (Ed. M. Muhriz and M. Shaltūt, Cairo, 1971) XIII, 190 (hereinafter cited as al-Nujūm) and Uzunçarşılı, Medhal, pp. 343-44.
  3. See Subh, IV, 34-39.

1) The officers who had audience with the sultān in the Dār al-‘Adl (House of Justice):

A) Qāḍi’l-quḍāts or chief qāḍīs: The office of the chief qāḍī was the highest office in its category. Before the Mamluk period, under the Fatimids and Ayyūbids, there was only one chief qāḍī in Syria, Egypt and the Maghrib. Although al-Qalqashandī maintains that this chief qāḍī could have been from any of the four orthodox rites,<sup>1</sup> this principle seems to have remained purely theoretical and the office was held by the Shafiite scholars,<sup>2</sup> due to the larger percentage of members of this rite. But in 1264, during the reign of Sultan Baybars, the four chief qāḍī system was introduced and each orthodox rite was represented by its own qāḍī.<sup>3</sup> Through this change, the monopoly of the Shafiite rite in the Mamluk kingdom was broken and some scholars and writers of that period were displeased.<sup>4</sup>

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1. See Ṣubḥ, IV, 35.

2. Uzunçarşılı, op. cit., p. 411.

3. See Ṣubḥ, loc. cit.

4. This is reflected, for example, in al-Maqrīzī, who relates that "Baybars after his death appeared in a dream to someone. When Baybars was asked how he was treated in the after-world, he replied that he had been reproached for no other thing so sharply as he had been blamed for appointing qāḍīs of the four rites in place of the Shafiite rite only." See S.F. Sadeque, Baybars I of Egypt (Dacca, 1956), p. 21, related from al-Maqrīzī's Kitāb al-Sulūk.

In 902/1496-97 we see an unsuccessful attempt to re-establish the one chief qādī system, which was advocated by the caliph al-Mutawakkil 'ala'llāh 'Abd al-'Azīz, who wanted Jalāl al-Dīn al-Suyūṭī to be the only qādī with full power and authority. This proposition was strongly opposed by a large number of scholars, including the qādīs themselves, who held:

"While the sultan exists, the caliph has no right to annul or establish (something) nor to appoint or dismiss (somebody)."<sup>1</sup>

This attempt was made partly with the aim of regaining some of the powers of the caliph by depriving the sultan of exercising this power over the qādīs. The caliph is in fact reported to have said:

"This (the appointment of the qādīs) is an old function of the caliphs, who used to appoint whomever they chose from the 'ulamā'."

However, the strength of the opposition to this proposal, which seems to have been a unique attempt by the caliph to regain some of the powers earlier associated with his office, forced him to withdraw it and moreover put him and his supporter al-Suyūṭī in an awkward position.

Despite the coexistence of the other qādīs of the remaining three rites, the Shafiite qādī preserved his

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1. See Badā'i, III, 339.

2. Ibid.



preeminence over them. He was in charge of inspection of the waqfs (religious endowments) and the property of orphans. The Hanafite qādī followed him in eminence, while the Malikite and Hanbalite ones took the third and fourth places respectively. This ranking continued until the establishment of Ottoman rule in Egypt and Syria, which put the Hanafite qādī in a dominant position.

Under Mamlūk rule the chief qādīs of Cairo, Damascus and Aleppo were appointed by the sultan and other qādīs of secondary importance were designated by the nā'ib al-saltānas, but sometimes even for the chief qādī's appointment the sultan left the choice to the nā'ibs amongst two or more candidates.<sup>1</sup> The sultan could dismiss any of the qādīs and replace him by somebody else. In 902/1496-97 he showed his power by dismissing the four chief qādīs of Egypt at once.<sup>2</sup> Unfortunately our sources do not indicate whether there was any connection between this event and the attempt to abolish the four-qādī system. If any major complaint against the qādīs was brought to the attention of the sultan he would summon them to Cairo and investigate the matter. For example, in 888/1483 two qādīs from Damascus were asked to be present in Cairo for questioning about allegations that the occupants of the Abū 'Umar madrasa had been beaten with sticks.<sup>3</sup> In 886/

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1. See Mufākaha, I, 130.

2. Ibid., I, 175.

3. Ibid., I, 60.

1481, when the qādīs went to congratulate the sultān at the beginning of the month of Rajab, they were asked about a case of legacy (tarikā) which had already been decided upon, and the Malikite and Shafiite qādīs were questioned about the delay in the execution of the decision. When they could not give any satisfactory answer, the kātib al-sirr wanted to calm the sultan by trying to justify the qādīs' stand, which made the sultan even angrier. He addressed the kātib al-sirr and said "You are dismissed, so are the Shafiite and Malikite qādīs."<sup>1</sup> In another incident, in 895/1489-90, some people made a complaint to the sultan about the Malikite nā'ib Badr al-Dīn b. Qarāfī, who was summoned and beaten before the sultan.<sup>2</sup>

The chief qādīs could appoint a number of deputies (nā'ib) to help them with the execution of their duties. When there were too many deputies their numbers were occasionally reduced by the sultān; for example, in 842/1438 the sultan issued a decree limiting the number of deputies in Cairo to ten for the Hanafites, to fifteen for the Shafiites and to four<sup>each</sup> for the Malikites and the Hanbalites.<sup>3</sup> The important cases were handled by the chief qādīs, whereas ordinary ones were taken care of by

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1. See Badā'i', III, 183.

2. Ibid., III, 269.

3. al-Nujūm, VII, part I, p. 56.



their deputies. Apart from the pronouncement of sentences and their execution, and mediation between litigating parties, other duties of the qādīs included the supervision of prayers and certain ceremonial functions such as visiting the sultan or governor at the beginning of the months and year,<sup>1</sup> attending certain religious ceremonies (i.e. mawlids) and official receptions.<sup>2</sup>

Another important aspect of the Mamluk qādīs was that they also acted as muftīs and issued fatwās. In this respect, however, they were not as free as they should have been. Their fatwās on matters affecting the state had to suit the policy of the sultan. Although we have a few examples of brave qādīs and scholars who refused to issue a fatwā despite a request from the sultan, in general the qādīs did carry out the sultan's suggestions in order to keep their posts. Occasionally the sultan himself used to prepare a fatwā and get it signed by the religious authorities. The qādīs, sometimes, were sent abroad on good will missions or as representatives performing various duties.<sup>3</sup> It must be added that, as an institution, the office of the qādī was not completely free of corruption and vices.<sup>4</sup> The chronicles mention several cases of

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1. See Badā'i', III, 85, 102, 183, 282, 297.

2. See Mufākaha, I, 257, 270.

3. See Schimmel, "Kalif und Kadi..." p. 40.

4. For examples see al-Nujūm, XIII, 39-40; Badā'i', III 269, 273; Mufākaha, I, 109; Schimmel, "Glimpses" p. 357-58.



bribery, drinking of alcohol, use of hashish and sexual irregularity.

B) Qādī 'Askar, the army judge: The establishment of this office in Egypt and Syria is said to have taken place during the reign of Sultan Ṣalāḥ al-Dīn Yūsuf (d. 1193), the founder of the Ayyubid dynasty.<sup>1</sup> The army judge, like the chief judge, was a member of the Dār al-'Adl, but in rank held a lower position than him. The army judges used to accompany the sultan during his military expeditions and settle the judicial cases which arose within the army, such as conflicts between individuals or groups, the division of the booty, the inheritance of dead soldiers etc. They also occasionally performed diplomatic missions and took part in negotiations. As for the number of the army judges, it seems that there were either three or four in Cairo, two each in Damascus, Aleppo and Tripoli and one in Ḥamā.<sup>2</sup> The information given in the sources indicates that the position of the army judges was not as important as it was in the Ottoman Empire and only a few names of the office holders are mentioned in the chronicles.

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1. See Ṣubḥ, XI, 204.

2. See Ṣubḥ, XI, 204 ; IV, 192, 221, 234 and 238.

C) The Muftī: There were four muftīs in the House of Justice (Dār al-‘Adl), sitting below the army judges and giving fatwās on religious matters. They also accompanied the sultan in his expeditions. The muftīs in Egypt were appointed by the sultan, whereas they were nominated by the nā‘ib al-saltānas in Damascus, Aleppo and Tripoli. These three centres had only two muftīs, one Hanafite and the other one Shafiite.<sup>1</sup> Since the qādīs and shaykhs also issued fatwās, the muftī had only a small area in which to practise his profession.<sup>2</sup>

D) Wakīl of the Bayt al-Māl:<sup>3</sup> The wakīl of the treasury of the state was in charge of all sales and purchases of land, houses, etc. undertaken by the state. He was also responsible for the accounts of the treasury. His office was based in the Dār al-‘Adl; sometimes he was above and sometimes below the muhtasib in rank, depending on the respective importance of the two persons who occupied these posts.<sup>4</sup>

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1. See Subh, IV, 192, 221, 234.

2. See Schimmel, op. cit., p. 41.

3. "Bayt al-Māl, in its concrete meaning 'the House of Wealth', but particularly in an abstract sense the 'fiscus' or 'treasury' of the Muslim state."

See "Bayt al-Māl" in EI<sup>2</sup>, I, 1141.

4. See Subh, IV, 36; Gaudefroy-Demombynes, op. cit., p. LXXVII.

E. The Muhtasib or Nāzir Hisba: The office of the muhtasib was one of the prominent offices, "and it falls under the religious obligation 'to command to do good and forbid to do evil',<sup>1</sup> which rests with the person in charge of the affairs of the Muslims. He [the ruler] appoints to the position men whom he considers qualified for it."<sup>2</sup> The holders of this office were required to be distinguished by their righteousness, respectability and moral integrity. They were also expected to have considerable knowledge of law. There were two muhtasibs in the capital, one of whom was called the muhtasib of Cairo, was in charge of the maritime provinces with the exception of Alexandria, which had its own muhtasib. The second one was the muhtasib of Fustāt, for the upper provinces, but in rank he was below the muhtasib of Cairo.<sup>3</sup>

The duties of the muhtasib included checking trading practices and acting against those who broke commercial regulations. "He also had to supervise the performance of religious obligations such as the public attendance at the prayer, the proper use and upkeep of the mosques etc. and

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1. This phrase is to be found in the Qur'ān in various chapters, such as "He (the Prophet) will enjoin on them that which is right and forbid them that which is wrong." Qur'ān, 7:157; also, "And the believers, men and women, are protecting friends one of another, they enjoin the right and forbid the wrong." Qur'ān, 9:71.
  2. Ibn Khaldūn, The Muqaddima (translated by F. Rosenthal, London, 1958) I, 462.
  3. See Subh IV, 37; Gaudefroy-Demombynes, op. cit., p. LXXVII.



the propriety of the behaviour between the sexes in the streets."<sup>1</sup> The muhtasib used to sit in one of the mosques every other day and control the municipal affairs of that region, which included checking the shops, markets, factories and inspecting the weights and measures. He was expected to make sure that there was no dishonesty in the manufacture or in the sale of goods. He checked the prices regularly and tried to prevent hoarding and high prices during times of shortage.

The position of the muhtasib in the Dār al-‘Adl was below the nāẓir of the Bayt al-Māl unless he was particularly distinguished for his learning. In Damascus, Aleppo and other Syrian provincial capitals they were appointed by the nā’ib al-saltānas.

II. The religious functionaries who did not have audience with the sultan in the Dār al-‘Adl:

A) Naqīb al-ashrāf: This post denotes the head of the descendants of the Prophet. The function of his office was to verify the origin (nasab) of the descendants of the Prophet through his daughter Fāṭima and her husband ‘Alī. The naqīb al-ashrāf was responsible for maintaining moral and religious standards amongst the descendants of the

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1. C. Cahen, M. Ṭalbī, "Ḥisba" (in EI<sup>2</sup>, III, 485).

Prophet and protecting their interests. During the Fatimid period this office was called niqābat al-Ṭālibiyyīn.<sup>1</sup>

There were offices of the naqīb al-ashrāf also in Syrian provincial capitals, Damascus, Aleppo, Tripoli etc.,<sup>2</sup> and the appointments were made by the nā'ibs. The descendants of the Prophet enjoyed certain privileges, for example, the sayyids and sharīfs were exempted from kissing the ground in the presence of the sultan, as a sign of respect to their origin.<sup>3</sup>

There was a council under the chairmanship of the naqīb al-ashrāf, known as dīwān al-ashrāf, in charge of keeping the genealogical lists of the descendants of the Prophet and noting important events concerning them. This council was also responsible for running the waqfs which were allocated to the above-mentioned dynasty.<sup>4</sup>

B) Shaykh al-shuyūkh: The office of this post was known as either mashyakhat al-shuyūkh or mashyakhat al-khānqāh. During the earlier period this title referred to the shaykh of the khānqāh which was built by Ṣalāḥ al-Dīn

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1. See Subḥ, IV, 38; Uzunçarşılı, op. cit., p. 416.

2. See Subḥ, IV, 193, 221.

3. See Uzunçarşılı, op. cit., p. 414.

4. Ibid., p. 414 (quoting from Zubdat Kashf al-Mamālik of Khalīlī Zāhirī p. 109).

Yūsuf b. Ayyūb, thus known as the Khānqāh Ṣalāhiyya.<sup>1</sup>  
But after the establishment of the Khānqāh Sīryāqūs in 725/  
1324-25 during the reign of Malik Nāṣir Muḥammad the title  
referred to the shaykh of this establishment. The first  
person to hold this office in Sīryāqūs was Majd al-Dīn  
Mūsā b. Aḥmad b. Maḥmūd al-Aqṣarāyī who was given the title  
of shaykh al-shuyūkh by the sultan himself.<sup>2</sup>

In Damascus, this post was held by the shaykh of the  
Khānqāh Sumaysātiyya.<sup>3</sup> In the provinces the appointment  
to this post was made either by the sultan or by his  
nā'ibs depending on the importance and prominence of the  
shaykh. The office holder was responsible for the  
administration of his khānqāh and the welfare of the  
people living in that establishment.

c) Nāẓir al-aḥbās: This was the post of the administrator  
of mosques, madrasas, zāwiyas, caravansarays, hospices for  
the poor etc. which belonged to the state. The holder of  
this post was at the same time head of a council called  
"dīwān al-aḥbās al-mabrūra" which met the expenses of the

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1. See al-Khiṭaṭ, II, 415.

Gaudefroy-Demombynes gives it wrongly as "Khanqah eṣ  
Ḥālihiya" see op. cit., LXXVIII.

2. See al-Khiṭaṭ, II, 422.

3. See Uzunçarşılı, op. cit. p. 415. Subḥ (IV, 193) gives an  
incorrect version of the name of the Khānqāh: Sumaysātiyya



above mentioned religious, social and educational establishments and paid the salaries of those who were employed therein. According to al-Qalqashandī the origin of this office goes back to al-Layth b. Sa'd who bought a piece of land from the treasury (Bayt al-Māl) and made a religious bequest for the benefit of the people.<sup>1</sup>

In each of the provincial centres there was a nāzir al-ahbās who took care of the waqfs and other institutions mentioned earlier. There were, however, other councils and nāzirs to deal with the private waqfs.

D) Nāzir al-bīmāristān:<sup>2</sup> the administrator of the hospital which was built by al-Mansūr Qalāwun about 683/1284.<sup>3</sup> The building was the most splendid of its kind

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1. See Ṣubḥ, IV, 38. "... ḥabbasahā 'alā wujūh al-birr..." Thus the name of the office comes from the same root Ḥ-B-S.

2. A Persian word, bīmār, "sick" plus the suffix istān, denoting place, a hospital. Al-Qalqashandī classifies this post under the religious functionaries in Egypt (Ṣubḥ, IV, 38) but in his account of Aleppo the same post is classified under the "men of the sword" (op. cit., IV, 220). This may be explained as meaning that the holders of this office in Egypt were most probably from the 'ulamā' and in Aleppo they were from arbāb al-suyūf. Gaudefroy-Demombynes also followed the first classification. (See op. cit., p. LXXX.)

3. See al-Khiṭaṭ, II, 406.

in Egypt, and perhaps the most elaborate which had yet been seen in Islam.<sup>1</sup> In Aleppo there were two hospitals, namely the 'Atīq Hospital and the New Hospital which was built by Arghūn al-Kāmilī in 755/1355. The administrators of these establishments were appointed by the nā'ibs in the provinces.<sup>2</sup>

E) Khaṭībs : This post, in Islam, is regarded as one of the most respected ones in its category since it was performed by the Prophet himself and by the four orthodox caliphs. In Egypt until the time of the caliph al-Musta'īn billāh, the khutba was delivered in the Citadel mosque by the caliph. After that generally the Shafiite qādī performed this duty on behalf of the caliph. No doubt delivering the khutba in Cairo, especially in the presence of the sultan, was a great honour for the khaṭīb himself; as we see in the case of the newly appointed Malikite qādī who was so confused by this honour that he fell down the minbar.<sup>3</sup> Very often the functions of khaṭīb and imām were combined in one person.

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1. G.S. Colin, "Bīmāristān" (in EI<sup>2</sup>), I, 1224.

2. See Subh, IV, 220. For other Bīmāristāns in Tripoli, Karak, Ṣafad, Ḥamā, Nāblus etc. see N.A. Ziadeh, Urban Life in Syria (Beirut, 1953) pp. 158-59.

3. See Schimmel, "Glimpses" p. 362.

F) The teachers (mudarrisūn): This group naturally constituted the backbone of the educational system. They held posts in various institutions such as mosques, zāwiyas, madrasas etc. The subjects which they taught were mainly tafsīr, ḥadīth, fiqh, grammar, Arabic language and literature. In some institutions other subjects such as medicine, chemistry and physics were also taught. The sultan in Cairo and the nā'ibs in the provinces appointed only very important and prominent teachers. For example, the teachers of the Ṣalāḥiyya<sup>1</sup> and Mansūriyya<sup>2</sup> madrasas were appointed by the sultan.

### Religious Ceremonies

The most frequent of these ceremonies was of course the Friday prayer, which was observed throughout the kingdom. In Cairo the sultan attended the prayer in full dress in the Citadel. The amīrs of high rank were also expected to attend the prayer, which was usually led by the Shafiite chief qādī. In the khutba the names of the sultan and caliph were mentioned. To be the imām-khaṭīb of big mosques such as al-Azhar in Cairo, the Umayyad mosque in Damascus and the Great mosque in Aleppo was one of the

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1. It was built by Ṣalāḥ al-Dīn Yūsuf and it is situated near the tomb of Imām al-Shāfi'ī.

2. See al-Khiṭaṭ, II, 379.



most desirable posts amongst the 'ulamā'. The nā'ibs in the provinces and other high ranking officials were also expected to attend the prayer.

The two 'Īd prayers, namely 'Īd al-Fiṭr at the end of Ramaḍān and 'Īd al-Aḍḥā about three months later, were also held in the same manner in which Friday prayer was held. On the 'Īd day the sultan was visited by the caliph, the four chief qādīs, high ranking amīrs etc. In Syria the nā'ibs were visited by other officers and religious functionaries. These days were very special not only to the sultan and amīrs but to all people in general. Mamluks were given sheep to sacrifice on the 'Īd al-Aḍḥā, the sultan gave generously to the poor, etc. Again in the month of Ramaḍān the same generosity was shown to the people, and the occupants of the khānqāhs, zāwiyas and madrasas were given special meals and clothing. The beginning and end of Ramaḍān were determined by the appearance of the new moon which was observed by the appointed qādīs. The end of the month was announced by beating drums in the Citadel.

One of the main features of Ramaḍān was the recitation of the Qur'ān and the Ṣaḥīḥ al-Bukhārī before the sultan and other high ranking officers. In Cairo it was held sometimes in the Citadel, sometimes in the Azhar mosque. This custom was also practised in Damascus, Aleppo and other centres throughout the Mamluk Kingdom.<sup>1</sup> On

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1. See Mufākaha, I, 98, 270, 383 and Badā'i', III, 65, 69, 83, 93, 122, 137, 170 for the recitation of al-Bukhārī.

completion of the recitation of the whole Qur'ān or the Ṣaḥīḥ al-Bukhārī the sultan and nā'ibs invited the qādīs, leading 'ulamā' and the shaykhs and offered them robes of honour, money etc.<sup>1</sup> In addition to these official practices each madrasa, khānqāh or zāwiya also carried out these practices in their own institution.

Another of the major annual religious events was the Pilgrimage. As has been indicated earlier, by the re-establishment of the caliphate in Egypt and its recognition by the Sharīf of Mecca the Mamluk sultan gained an advantage over other Muslim rulers. The protection of the Holy places and the control of the Pilgrimage became one of their privileges. They used to provide the curtain of the Ka'ba (kiswa), a privilege which was sought by several rulers, among them the Timurid ruler Shāh Rukh and the ruler of the Black Sheep (Qara Qoyunlu) Turcomans, Muḥammad b. Qarā Yūsuf.<sup>2</sup> A person was designated by the sultan every year to direct the journey and to supervise the conduct of the pilgrims. The designation of this person, known as amīr al-Ḥajj, was followed by several colourful ceremonies held in the streets of Cairo, which was a meeting place of many pilgrims on their way to Mecca. Pilgrims, especially those coming from the Maghrib, used to gather in Cairo. "In Egypt", says Grunebaum, "some three weeks before the caravan was to leave the kiswa was paraded in a preliminary festivity. A few days before the caravan

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1. See Badā'i', III, 170.

2. See Schimmel, "Glimpses", p. 365.

actually set out there was another procession centring about the mahmil<sup>1</sup>, which can perhaps be briefly characterized as a richly adorned ceremonial litter which is to accompany the caravan to the Holy places and back."<sup>2</sup> The caravan of the Pilgrimage consisted of people of various classes. In addition to ordinary people it was sometimes joined by members of royal houses of other states, high ranking amīrs, deposed sultans or even the sultan himself.<sup>3</sup>

Another of the religious festivals observed in the Mamluk kingdom was the celebration of the birthday of the Prophet, a celebration which was opposed by a certain group of the 'ulamā'.<sup>4</sup> It was held usually on the 12th of Rabī' al-~~A~~wwal of every year and it was attended by the sultan, the caliph, amīrs, leading jurists, etc. In Cairo it usually was held in the Citadel. During the time of Malik Baybars, a huge, beautifully decorated tent was built for this purpose at the cost of 30,000 dīnārs.<sup>5</sup>

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1. For a detailed description of it see E.W. Lane, An Account of the Manners and Customs of the Modern Egyptians (New York, 1973) p. 438.
  2. G.E. von Grunebaum, Muhammadian Festivals (New York, 1951), p. 37.
  3. See Schimmel, "Glimpses" p. 368.
  4. See p.139 of this work for a similar issue.
  5. See Badā'i', III, 200.



Mawlid ceremonies were also held in other cities, usually in the biggest mosque of the province. Outside Cairo mawlids were organised by the nā'ibs, who invited the prominent 'ulamā' and amīrs. Usually a banquet followed the ceremony.<sup>1</sup> Although this celebration continued to be held in mosques, after the Ottoman conquest its performance in the Citadel in Cairo was discontinued.<sup>2</sup>

Besides the mawlid of the Prophet, other mawlid ceremonies were also held for some well-known saints, one of whom, the woman saint Sayyida Nafīsa (d. 208/823), is buried in a tomb carrying her name in Cairo.<sup>3</sup> She was a descendant of the Prophet through his grandson Ḥasan and was known for her ascetic life and piety. The first of the mawlids for her was held in 889/1484, to which the sultan Qāytbāy invited the caliph, the four chief qādīs and the Qur'ān reciters etc. The second one was held in the following year in 890/1485. These two celebrations, however, seem to be the only ones recorded by the historians of that period.<sup>4</sup> Other mawlid ceremonies of the same nature were held for Sayyida Zaynab, the grand-

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1. See Mufākaha, II, 101. The mention of mawlids made by Ibn Iyās can be found in his Badā'i', II, 402, 414 444, III, 21, 53, 63, 130, 145, 164, 200, 206, 216, 280..
  2. See Schimmel, "Glimpses" p. 371.
  3. See al-Khitāt, II, 440.
  4. Badā'i', III, 206, 216.

daughter of the Prophet, Imām al-Shāfi'ī, Sayyid Aḥmad al-Badawī (d. 675/1276) etc. But in some cases "the festival was not a mawlid or anniversary celebration but a mawsim (literally, season of celebrating a fair or a feast), the timing of which may reflect that of an ancient nature festival rather than an event in the more or less legendary life of the saint himself."<sup>1</sup>

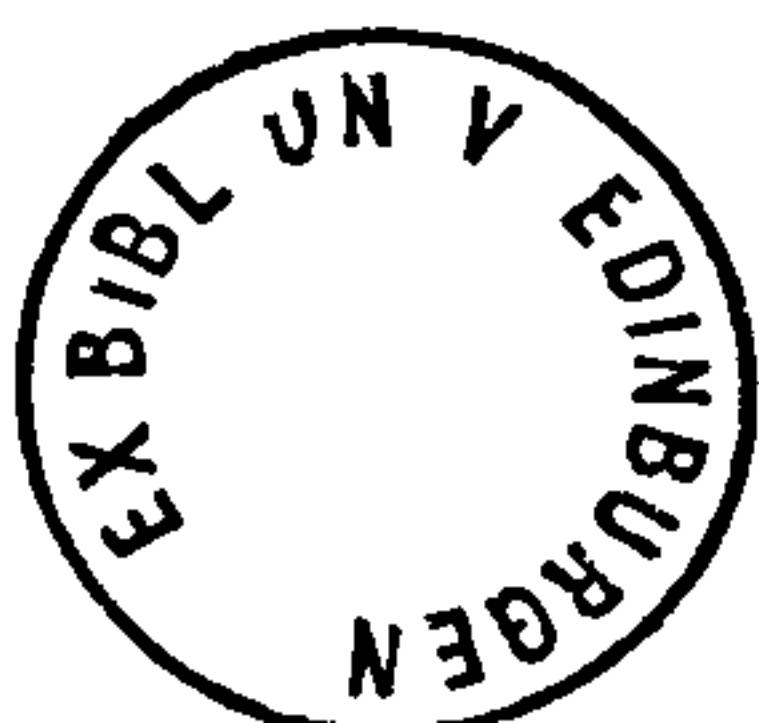
### Tarīqas and Sufism

During the Mamluk period the tarīqas were widely spread in Egypt and Syria and represented an important aspect of religious life. They were based in institutions such as zāwiyas, khānqāhs, ribāts etc. Some of the orders were opposed by the representatives of the sharī'a (i.e. the fuqahā') while others were accepted and regarded as being within the limits of the Holy Law. Since a detailed account of the tarīqas and the arguments over them cannot be accommodated in this chapter, a short summary of the important ones in the second half of the 15th century will be given. A few incidents connected with wahdat al-wujūd and ittihādiyya<sup>2</sup> will be cited since the groups involved attracted our scholar al-Ḥalabī's hostility.

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1. G.E. von Grunebaum, op. cit., p. 80-81.

2. For different meanings of this term see R. Nicholson - G.C. Anawati, "Ittiḥād" in EI<sup>2</sup>, IV, 282-283.



and severe criticisms.

Various social and economic reasons are cited by some modern scholars<sup>1</sup> for the wide diffusion of tariqas and sufism in Mamluk Egypt and Syria. These authors argue that there is a correlation between general decline in the moral standards of society and increase in crime (which creates an atmosphere of insecurity and unrest among the people) and a growth in the popularity of sufism. In such periods of instability, people find spiritual satisfaction in tariqas and hope to receive God's mercy and pardon by withdrawing from worldly preoccupations.

Moreover, the ruling caste were originally foreigners and non-Arabs, and they kept power exclusively for themselves. The indigenous population felt a natural sense of social injustice in this and found more security and satisfaction in tariqas, where the shaykhs or qutbs were of their own people.

It is important to note, however, <sup>that the</sup> mamluks themselves felt that they were foreigners in the country and that they had usurped power from its legal owners. They were anxious to be seen to be espousing the cause of Islam and in particular those forms of Islam which were popular among the mass of the population. Thus they encouraged the

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1. See 'Alī Ṣāfī Ḥusayn, Al-Adab al-Ṣūfī fī Miṣr (Cairo, 1964), p. 19 ff, and Sa'īd 'Abd al-Fattāḥ 'Āshūr, Al-'Asr al-Mamālīkī fī Miṣr wa'l-Shām (Cairo, 1965), pp. 339-41.



establishment of khānqāhs and zāwiyas and gave money for them to be built.

Amongst the most important of these orders were the Shādhiliyya, Ahmadiyya, Rifā'iyya, Burhāmiyya and the Qādiriyya, to whom can be added the devotees of wahdat al-wujūd and ittihādiyya.

The Shādhiliyya was founded by 'Alī b. 'Abdallāh b. 'Abd al-Jabbār Abū al-Ḥasan al-Shādhilī (d.1258 ) and was especially widespread in North Africa and Egypt. It is known for its adherence to practice according to the Qur'ān and sunna. Al-Shādhilī enjoined his companions and followers not to subscribe to anything contradicting the teachings of ahl al-sunna wa'l-jamā'a. In his teaching existence is divided into two, namely the Creator and the created. The relationship between the two is accepted on the basis of the teachings of al-Ash'arī and ahl al-sunna. This order has maintained its existence and popularity to the present day.<sup>3a</sup>

The Ahmadiyya order (also known as the Saṭūhiyya)<sup>3b</sup> was established by Ahmad al-Badawī (d. 733/1322-23), who attracted a large number of followers, among them Sultan Baybars who is reported to have kissed his feet.<sup>1</sup> Sultan Khoshqadam's wife was an admirer of the shaykh and adopted the nisba of "al-Ahmadiyya".<sup>2</sup> There was, however, a strong disapproval of some of the acts performed during

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1. Schimmel, "Glimpses", p. 371.

2. Ibid.

3a.3b. See Husayn, op.cit. pp.60 and 145 respectively.

the mawsim or fair in Ṭanṭā where al-Badawī is buried.

"In 852/1448 the 'ulamā' and pious politicians caused the sultan al-Zāhir Djaqmaq to forbid the pilgrimages to Ṭanṭā, but this edict had no effect because people would not forsake their old customs,"<sup>1</sup> and in 888/1483 Sultan Qāyṭbāy, who is regarded as a "great admirer" of al-Badawī, visited his tomb.<sup>2</sup> The order is still widespread in Egypt and parts of Syria, and is divided into at least a dozen branches.

Another prominent order was the Burhāmiyya, which takes its name after Shaykh Ibrāhīm b. Abi'l-Majd al-Hāshimī al-Qurayshī, known as al-Dasūqī, (d. 676/1277), who laid down the principles of the order. The position of the shaykh in this order is more powerful than it is in others, and he has more authority over his followers. In his doctrine al-Dasūqī gives great importance to the concept of the light of Muḥammad (al-nūr al-Muḥammadī), which is eternal in the past and in the future, appeared in Adam, Idrīs etc. and finally in Moses and Jesus. After the death of Muḥammad, al-Dasūqī claims that this light appeared in the aqtāb (sing. qutb) and it will continue to appear until the last day of this world. Thus by this theory the position of the shaykh or qutb in this order gained enormous prominence.<sup>3</sup>

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1. K. Vollers - E. Littmann, "Aḥmad al-Badawī" in EI<sup>2</sup>, I, 281.

2. See Schimmel, op. cit., p. 372.

3. See Husayn, op.cit. 133pp.

The Qādiriyya order occupies a significant place not only in Mamluk history but in the periods preceding and following it. It is named after 'Abd al-Qādir al-Jīlānī (d. 561/1166), who was one of the leading figures of the Hanbalite rite in Baghdad. During his lifetime some of his sons preached his doctrine in Morocco, Egypt and Arabia.<sup>1</sup> Like other orders, the Qādiriyya also played a certain role as an established order in the daily life of the people, and to quote Schimmel:

"Thus, the Rifā'iyya, the Qādiriyya and the Ahmadiyya leaders are reported to have implored the rebellious Amīr Aqbardī to give up the siege of the Citadel in 902/1497." (See "Glimpses..."p.373)

She also adds that in 912/1516, when Qānṣūh al-Ghūrī (or al-Ghawrī) gathered his army for the last great campaign against the Ottomans, the leaders of the Qādiriyya, Rifā'iyya and Ahmadiyya orders accompanied him.

A mention of the Rifā'iyya order should also be made among the important orders. It was founded by an Iraqi shaykh, Ahmad al-Rifā'ī, who died towards the end of the 6th/12th century. Soon afterwards the order was established in Syria and spread under the names of Harīriyya and Sa'diyya.<sup>2</sup> In Egypt the Rifā'iyya order became known in the 7th/13th century and in a short time gained

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1. D.S. Margoliouth, "Qādiriyya" in EI<sup>2</sup>, IV, 381.

2. See Ziadeh, op. cit., p. 163.



popularity. Aḥmad al-Rifā'ī was a contemporary of 'Abd al-Qādir al-Jīlānī and some authors regard the former as a student of the latter.<sup>1</sup> The assumption of the khirqā, transmission of the titles of shaykh and qutb and pledge of allegiance between the shaykhs were amongst the important features of the order.

There is no doubt that the most controversial teachings current in this period were those of the advocates of the wahdat al-wujūd and ittihādiyya theories. According to the former, first systematized by Ibn 'Arabī (d. 1240), existence is one and there is no multiplicity in it. In this oneness there is no Creator and no created. There is no slave or worshipper and no one who is worshipped (ma'būd). This universe, human beings, animals, plants, stars etc. in fact are the reflections of the only necessarily existent (wājib al-wujūd). The teachings of the ittihādiyya more or less reach the same conclusion, since they claim that if the sālik achieves the union of his soul with God, or, in other terms, if the Ḥaqq is achieved, multiplicity disappears and, as a result, at this stage there is no Creator and no created.<sup>2</sup>

These controversial views attracted the hostility of the fuqahā', who regarded themselves as the guardians of the sharī'a. It was not only the fuqahā' who adopted a rigid hostility towards these doctrines, since some of the

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1. D.S. Margoliouth, "Ahmed Rifā'i" in IA, I, 204.

2. See Ḥusayn, op. cit., p. 37.

common people, without necessarily understanding the theological issues at stake, took the same attitude. This is illustrated by Ibn Iyās in his account of the year 888/1483:

"Shams al-Dīn b. Ḥulaybī inherited a copy of Ibn 'Arabī's Fuṣūṣ al-Ḥikam from the legacy of Yaḥyā b. Ḥajjī and said, 'This book must be burnt, since Ibn 'Arabī was an infidel worse than the Jews, the Christians and idol-worshippers.' Some of the people who were present said 'How can you burn the Fuṣūṣ, since it contains verses from the Book of Allāh?' He answered 'Nevertheless.' The matter was taken to the kātib al-sirr and Shams al-Dīn was executed for his utterance 'Nevertheless.'" <sup>1</sup>

In fact this incident reflects two attitudes, on the one hand the prejudice of a common man towards Ibn 'Arabī and on the other hand the authorities' strict measures to preserve and protect the sharī'a and orthodoxy.

Despite strong opposition, Ibn 'Arabī's teachings were followed by a large number of people. In Damascus his tomb was visited every day by many and dhikrs were organised there. Ibn Ṭūlūn's account of the year 914/1508 reflects the attitude of Damascenes towards this doctrine. He reports that a certain Ibn Ḥabīb, who was an ardent

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1. See Badā'i, III, 203.



follower of Ibn 'Arabī, came to Damascus from Ṣafad and went to the tomb of Ibn 'Arabī with a group of people. He denounced the opponents of Ibn 'Arabī in a rude and unseemly manner. On Friday he came to the mosque and performed the prayer. After he left, al-Maḥyawī al-Nu'aymī said, "I did not see the light (nūr) of ahl al-sunna on him." Ibn Ṭūlūn, who was present in the mosque at the time, adds the following comment, suggesting that he saw in it a divine coincidence:

"When he [Ibn Ḥabīb] came in and I saw him, I was reading a ḥadīth ... which says 'the Prophet said to 'Ā'isha "O 'Ā'isha, those who divide their faith and become different parties are the people of bid'a and people who follow their own inclinations; their repentance will not be accepted, and I have nothing to do with them and they have nothing to do with me.'"

Then the author says that the people were divided into three groups in their views of Ibn Ḥabīb. The first group were those who opposed him, who were ahl al-sunna for whom God wanted blessing (khayr). The second group, those who supported him, kept telling lies in order to establish his principles and to honour him. The third group were those who held that he did not have any intelligence. At the end of his account, Ibn Ṭūlūn states that the above-mentioned al-Nu'aymī accused Ibn 'Arabī's followers of being innovators. He also tells how he was asked by



Burhān al-Dīn b. 'Awn to go to the tomb of Ibn 'Arabī and spy upon people's acts and dhikrs.<sup>1</sup> This whole story again shows us the deep division between the supporters and opponents of Ibn 'Arabī's doctrine in the Mamluk state. This clash can also be seen on the intellectual level, in the writings of the learned people for and against wahdat al-wujūd.

Another example of disputes among the 'ulamā' is recorded by Ibn Iyās, who reports that in the year 875/1470 the disputes increased in Cairo over the orthodoxy of the well-known poet 'Umar b. al-Fāriḍ (d. 637/1235). A group of 'ulamā' stood against him, using a piece of poetry from his "Qasīda Tā'iyya". They associated him with those who advocated hulūl and ittihād,<sup>2</sup> and argued that he should be denounced as fāsiq (corrupt) or even as a heretic. Among those who held this point of view were Burhān al-Dīn al-Biqā'ī, the Hanafite chief qāḍī Muḥibb al-Dīn b. Shihna and his son 'Abd al-Barr, the chief qāḍī 'Izz al-Dīn al-Ḥanbalī, Nūr al-Dīn al-Maḥallī and a large number of students who supported them. The defenders of Ibn al-Fāriḍ were al-Suyūṭī, Muḥyī al-Dīn al-Kāfiyājī, Zayn al-Dīn Qāsim b. Quṭlubughā, Badr al-Dīn b. Ghars, Shaykh Zakariyyā'

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1. See Mufākaha, I, 328-9.

2. Hulūl, incarnation or infusion of the divine spirit into the body of a man. Ittiḥād, the identification of the divine and human natures. (Sartain, op. cit., I, 213).

etc. When the dispute became serious, several fatwās, satirical poems and treatises were composed on it. Muḥyī al-Dīn al-Kāfiyājī wrote what is described by Ibn Iyās as "one of the most fair fatwās," which was in defence of Ibn al-Fāriḍ. Al-Suyūṭī wrote a treatise entitled Qam' al-Mu'āriḍ fī Nuṣrat Ibn al-Fāriḍ<sup>1</sup>, in which he held "that Ibn al-Fāriḍ was one of God's saints, and maintained that people had no right to attack him on the basis of certain phrases in his poem which they did not understand, and indeed many scholars famed for their piety had interpreted the verses which were obscure. Moreover Ibn al-Fāriḍ was himself known to have been a pious man."<sup>2</sup>

Another work was entitled Duryāq al-Afā'ī fi'l-Radd 'ala'l-Biqā'ī. In fact several amīrs and most probably the sultān himself supported Ibn al-Fāriḍ. The kātib al-sirr of the time wrote a decree asking Zayn al-Dīn Zakariyyā' al-Shāfi'ī to clarify whether the expressions used by Ibn al-Fāriḍ were against the sharī'a or not, and whether they were only used by the members of the ṭarīqa or were also used by non-Muslims. The answer which was reluctantly given read:

"The writings of the Shaykh should be understood and interpreted within the

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1. Brockelmann, GAL, II, 156; Ibn Iyās (Badā'i', III, 48) gives the title as Qam' al-Mu'āriḍ fi'l-Radd 'an Ibn al-Fāriḍ.

2. See Sartain, op. cit., I, 55.

conventions of his ṭarīqa and the meaning is obvious for them."

In his answer Shaykh Zakariyyā' also stated that the disputed verses of the poem did not express anything of ḥulūl or ittihād. Ibn Iyās, who was a defender of Ibn al-Fāriḍ, stated:

"In our present age some of the 'ulamā' lack understanding. They do not grasp the meaning in the verses of our Shaykh's work and take only the zāhir meaning."<sup>1</sup>

In the gatherings of many of the above-mentioned orders, samā' and raqs were practised and these rituals were actually encouraged and sanctioned by the attendance of high-ranking officials. The sources especially mention Sultan Mu'ayyad as frequently visiting Khānqāh Sīryāqūs and attending the ceremonies of the sufi reciters. He met there choirs of the leading reciters, singers and people of good voice.<sup>2</sup> Ibn Taghrībirdī writes:

"After the performance of the reciters and singers samā' was performed through the night and prominent fuqarā' and zurafā' and some companions of the sultan danced before him in turn. The sultan was sitting in the group as if he was one of them."<sup>3</sup>

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1. See Badā'i, III, 47-51.

2. See al-Nujūm, XIV, 38.

3. Ibid.



On another occasion, on his way from Damascus and Aleppo the sultan called at the Khānqāh Sīryāqūs and there he bestowed favours generously upon the fuqahā' and the sufis. It is reported:

"He himself attended the samā' gathering while the sufis danced and reached a state of ecstasy before him. The sultan listened to the reciters and asked them to repeat the parts he particularly liked."<sup>1</sup>

However, this does not apply to every ruler, and some of them strongly disapproved of these practices. For example, during Sultān Chaqmaq's time "the fortunes of players and singers were low"<sup>2</sup> because of his opposition to such practices. Sultān al-Ghawrī, on the other hand, is reported to have had an interest in music and jesting.<sup>3</sup>

The samā' and raqs practices were quite widespread throughout the kingdom and occasionally went beyond the limits of the khānqāhs and other sufi institutions. For example, in 890/1485 after a Friday prayer, while Shams al-Dīn b. 'Ubayya al-Qudsī was preaching in the Umayyad mosque, a man threw himself into the circle of the congregation

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1. Ibid., XIV, 22.

2. B. Fleming, "Literary Activities in Mamluk Halls and Barracks" (in Studies in Memory of Gaston Wiet, Ed. M. Rosen-Ayalon, Jerusalem, 1977), p. 250.

3. Ibid.

and then stood up and began dancing bare-headed, jumping up and down while watching the people approaching him in the mosque. Suddenly he fixed his eyes on an aged student, came out of the circle and hit him. He was not content with this, but snatched a stick and hit the man with it, justifying his action as follows:

"I am remembering God in ecstasy and he  
is laughing at me."<sup>1</sup>

The veneration shown to the sufis and shaykhs by many of the sultans may be illustrated by an example, reported in Badā'i (III, 259-60) which states that the sultan Qāyrbāy always wanted to meet a certain shaykh called al-Dashṭūṭī. A man named 'Abd al-Qādir b. al-Rammāh promised the sultan that he would inform him when the shaykh came to Cairo. A couple of days later 'Abd al-Qādir gave the sultan the news that the shaykh would be in a certain place in Cairo on a certain night. The sultan went to that place after the 'Ishā' prayer, and saw a man sitting and covering his face with his robe. The sultan began kissing his feet and seeking his blessings. After a long session between them the sultan gave him 500 (or 1000) dīnārs and left thinking he was al-Dashṭūṭī. Some time later it became clear that 'Abd al-Qādir had played a trick and presented the sultan to someone who looked like al-Dashṭūṭī. He was beaten before the sultan, humiliated on donkey-back in the streets and shortly after died in prison.

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1. Mufākaha, I, 115.

Again, the influence of Shaykh Ibrāhīm b. 'Alī al-Matbūlī (d. 877/1472) on the sultān Qāytbāy is mentioned in the sources.<sup>1</sup> The great shaykhs and sufis had their influence on the people even after their deaths:

"The visiting of the tombs of saints to ask for their intercession with God in order to obtain an answer to a particular prayer, or to gain God's blessing, was very common, and among the uneducated almost amounted to saint worship."<sup>2</sup>

Although sufi practices, such as samā', raqs and singing, were treated with great tolerance, strict measures were applied to the consumption of hashish, alcohol etc. If the government did not take the necessary steps against these acts, usually the people, fuqahā' or some sufis took action, as reported by Lapidus:

"Sufi Sheikhs and their followers often attacked the wine shops to spill out the forbidden beverages and equally condemned the use of hashish."<sup>3</sup>

In 885/1480 for example, a man who possessed a paste which was a mixture of hashish and treacle went to the zāwiya of Shaykh al-'Addās, where he was attacked by Shaykh 'Abd

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1. See Schimmel, "Glimpses" p. 381.

2. Sartain, op. cit., I, 128.

3. See Lapidus, op. cit., p. 106.



al-Qādir and his friends, and the paste was destroyed.<sup>1</sup>  
In the same year a group of sufis raided a place where bōza<sup>2</sup> was produced. They poured away the liquid and damaged the place.<sup>3</sup>

"In one incident", Lapidus reports, "in Damascus in 899/1493-94 a Negro beggar, a sufi Sheikh named Mubārak took up the Muslim injunction to 'command good and forbid evil' and attacked wine drinkers. The governor arrested him, but a qadi arranged to have him freed. A second arrest, however, resulted in fighting which took thirty lives before the incident was closed."<sup>4</sup>

In fact, this above-mentioned injunction "command good and forbid evil" was occasionally brought to the attention of the nā'ibs and amīrs in the provinces by Cairo. Ibn Tūlūn reports that in 885/1480 al-Shaykh 'Abd al-Rahmān al-Ḥarīrī returned to Damascus from Cairo conveying an imperial decree to the nā'ib ordering "al-amr bi'l-ma'rūf wa'l-nahy 'an al-munkar".<sup>5</sup>

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1. See Mufākaha, I, 8.

2. Bōza, a drink made from malted millet, tart and sometimes slightly intoxicating. See J.W. Redhouse, A Turkish and English Lexicon (Istanbul, 1921), p. 397..

3. See Mufākaha, I, 7.

4. See Lapidus, op. cit., p. 106.

5. See Mufākaha, I, 18.

The Madrasas and the 'Ulamā'

In the Mamluk kingdom the madrasas and the 'ulamā' who were mainly educated therein constituted an important pillar of society by playing a vital role in government affairs as well as in the daily life of the people in general. Many of the office-holders, including judges, jurists, imām-khāṭibs, teachers, scholars etc. were educated in the madrasas. Owing to the wide application of the Islamic law the 'ulamā' played an administrative and social role as well as a religious one. The laws concerning marriage, divorce, inheritance, guardianship and religious endowments were administered by the qādīs; the markets were inspected and commercial rules enforced by the muhtasibs, and prayers were led by the imām-khāṭibs who had a certain influence on their congregation.

N.A. Ziadeh remarks on this subject:

"Many of the administrative offices were held by them too. Kātibs of inshā', nāẓirs of various institutions, such as bīmāristans and al-jaysh, were of the 'ulamā'."<sup>1</sup>

But as a whole the 'ulamā' had one essential duty, which was to preserve and promote the sharī'a by applying its rules, spreading its teachings and protecting it against corruption, vice and innovations. The role played by the 'ulamā' was described by Lewis as follows:

"Mamluk soldiers, Egyptian and Syrian administrators defended and maintained

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1. See Ziadeh; op. cit., p. 184.

the state, Egyptian and Syrian scholars preserved, interpreted and enriched the heritage of classical Islam."<sup>1</sup>

In fact, in addition to the Syrians and Egyptians, scholars from Central Asia, the Maghrib and Asia Minor who contributed considerably to scholarship should also be mentioned. Amongst the most famous Anatolians were Kamāl b. al-Humām al-Siwāsī<sup>2</sup>, who was the shaykh al-shuyūkh of the Khānqāh al-Shaykhūniyya and died in 861/1456-57, Muḥyī al-Dīn al-Kāfiyājī<sup>3</sup> (d. 879/1474), who was one of the teachers of al-Suyūṭī, and Amīn al-Dīn al-Aqsarāyī, who died in 880/1475.<sup>4</sup>

During the Mamluk period we observe that the 'ulamā' travelled a great deal between the various urban centres, mainly Cairo, Damascus, Aleppo, Mecca and Jerusalem. Many scholars went to Cairo to study, to copy or buy books, or sometimes on their way to the Holy places. The scholars of one centre were aware of what was going on in the academic circles of others. Sometimes an exchange of

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1. B. Lewis, "Egypt and Syria" (in Cambridge History of Islam I), 228.
  2. He is the author of the well-known commentary on the Hidāya entitled Fath al-Qadīr li'l-Ājiz al-Faqīr. See Shadharāt, VII, 297.
  3. See ibid., VII, 326.
  4. See Badā'i, III, 107.



correspondence, books and treatises took place if personal contact was impossible. When a well-known scholar died in one place, special prayers (ṣalāt al-ghā'ib) were offered for him in other centres. In Damascus these prayers were usually held in the Umayyad mosque but permission had to be obtained from the Shafiite qāḍī for this.<sup>1</sup> For example in 894/1488-89 prayer was offered in this mosque for Jamāl al-Dīn al-Gūrānī, who had died in Istanbul.<sup>2</sup> In 911/1505 when al-Suyūṭī died in Cairo and in 890/1485 when the Hanafite qāḍī al-Muqri' died in Jerusalem ghā'ib prayers were held for them in Damascus.<sup>3</sup>

Primary education was given to the children in schools by a teacher called al-mu'addib or al-faqīh, who was required to be religious, trustworthy, good-natured, married and good at teaching.<sup>4</sup> This teacher was helped by an assistant called al-'arīf. The number of these teachers in one school naturally depended on the number of the pupils they had. There were also certain boarding schools for Muslim orphans, who were provided with food

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1. See Mufākaha, I, 158.

2. He is Sharaf (or Shihāb or Shams) al-Dīn Aḥmad b. Ismā'īl b. 'Uthmān, known as Mollā Gūrānī. See J.R. Walsh, "Gūrānī" (in EI<sup>2</sup>, II, 1141).

3. See Mufākaha, I, 295 and 68 respectively.

4. 'Āshūr, op. cit., p. 335.

and clothing. 'Āshūr states that one of these schools was built by Sultan Mansūr al-Qalāwun and two teachers were appointed to teach there.<sup>1</sup> It is also possible that some children were instructed at home by relatives or private tutors.<sup>2</sup> In schools the mu'addib was advised that he should treat children kindly and gently. He was asked not to be cruel to them and not to beat them. If someone really deserved this he could beat moderately.

The curriculum in these schools was mainly based on reading, writing and study of the Qur'ān, hādith, the principles of religion, language and mathematics. Children memorized the Qur'ān at an early age. In addition to this they had to learn a couple of works on fiqh, grammar etc. by heart, such as Ibn Mālik's Alfiyya, al-Nawawī's Minhāj al-Ṭālibīn, al-Bayḍāwī's Minhāj al-Wuṣūl, al-Jammā'ī's 'Umdat al-Aḥkām, Ibn Mālik's al-Tashīl, al-Shāṭibī's Hirz al-Amānī etc.<sup>3</sup> When a child had memorized the Qur'ān a big celebration was arranged to mark the occasion, which included decoration of the school, a parade of children through the streets to the house of the child etc.<sup>4</sup> After a certain level the student could present what he had memorized and learnt before one or more eminent teachers and could be qualified for higher education.

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1. Ibid.

2. E.M. Sartain, op. cit., I, 119.

3. Ibid., loc. cit.

4. 'Āshūr, op. cit., p. 336.

Higher education was given mostly in the madrasas and mosques. The number of these educational establishments rapidly increased, mainly because they played an important role in the spreading of Sunnite Islam and its struggle against Shiite teachings. Mamluk sultans contributed a great deal to Islamic culture and education by building madrasas and libraries, and arranging scientific and religious sessions in the Citadel in which various problems were discussed by the leading scholars. In particular Sultan al-Ẓāhir Baybars' and Sultan al-Ghawrī's good treatment and encouragement of the 'ulamā' should be mentioned.

The immensity of the religious and scientific activities under the Mamluks can be judged by the number of the works produced in that period. Al-Suyūṭī, one of the most prominent figures in Islamic scholarship, and a product of this era, drew a connection between the establishment of the caliphate in Egypt and the increase in cultural activities. He describes Cairo as "the dwelling place of the learned people and stopping place of wandering men of merit."<sup>1</sup>

The opening ceremony of a madrasa was attended by the sultan, amīrs, qādīs and other prominent people, a fact which shows us the importance attached to these establishments. Teachers were usually appointed by the sultan and in an imperial decree the topic of the mudarris

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1. Jalāl al-Dīn al-Suyūṭī, Husn al-Muhādara (Cairo, 1299 A.H.) II, 86.



was specified. The control of the educational system was in the hands of the 'ulamā', whose support was always needed by the ruling class. Teachers were, in many cases, occupied with more than one job in different places. Some of them moved from one centre to another and students followed a famous jurist or muhaddith to benefit from his lessons and to obtain an ijāza from him. The value of this certificate, of course, depended on the fame and popularity of the teacher who issued it. The ijāza bore the name of the student, his teacher's name, the name of the rite, the date of the issue etc.

Most of the educational establishments were supported by religious endowments allocated for this purpose. Lodging was available at madrasas, khānqāhs and mosques both for the students and for the teachers. These establishments also served as hostels for scholars who came from abroad.

The subjects taught in the madrasas and mosques etc. varied from one to another and also depended on the mudarris. The most commonly studied subjects were fiqh, ḥadīth, the Arabic language, tafsīr and qirā'a. Theology, logic, medicine, geometry, algebra, astronomy and metaphysics are also mentioned among the subjects taught in educational establishments. Although a mudarris was given considerable freedom in his methods he had to follow a set curriculum and follow the commonly accepted norms in his teaching. In 899/1493 in Damascus the mudarris Zayn al-Dīn al-Ṣafūrī was banned from teaching ḥadīth in

the Umayyad mosque and others. The reason was that he had written a book entitled Nuzhat al-Majālis in which he included a mawḍū' ḥadīth.<sup>1</sup> This attests the concern of the authorities for the protection of orthodox Islamic teaching.

In many madrasas education was based on the principles of one of the four orthodox rites. In big establishments, however, the principles of the four rites were taught. The first madrasa in which the education was arranged on this basis was built by Sultan al-Ṣāliḥ Najm al-Dīn Ayyūb in 1232. Again, in the madrasa of Sultan al-Nāṣir Muḥammad b. Qalāwun there were four aywāns, each allocated to one of the four rites. The Shaykhūniyya Khānqāh also followed this system. There, the students were required to practice taṣawwuf as well as attending lectures on fiqh, ḥadīth and recitation of the Qur'ān according to the seven readings.<sup>2</sup>

As has been pointed out, the madrasa was not the only educational institution. Mosques, masjids, zāwiyas, khānqāhs and ribāts were also used for the same purpose. But in these institutions education was a secondary goal, whereas the madrasa was exclusively devoted to it. The vast number of educational establishments demonstrates how widespread they were. Al-Nu'aymī (d. 927/1520-21) gives a detailed

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1. See Mufākaha, I, 159.

2. See al-Khitat, II, 421.

account of the madrasas, dūr al-qurrā' and dūr al-ḥadīth.<sup>1</sup> Ibn Shaddād (d. 684/1285) gives an account of the educational establishments and ennumerates a dozen Hanafite madrasas in Aleppo and another ten on the outskirts.<sup>2</sup> He also counts more than twenty Shafiite, and three Malikite and Hanbalite madrasas in and outside Aleppo.<sup>3</sup> In addition to these madrasas five dūr al-ḥadīth in Aleppo and four outside it are also mentioned. However, we have evidence that the number of such institutions was much bigger in the 8th and 9th centuries. Lapidus makes mention of madrasas built in the years 737/1336, 787/1394, 824/1421, 829/1425, 840/1436 etc. in Aleppo. He also adds that another fourteen madrasas were constructed in the 8th and 9th centuries.<sup>4</sup> Again in the same centuries more than fifty madrasas, twenty five zāwiyas, fifteen khānqāhs and sixty mosques were built in Damascus.<sup>5</sup> Al-Maqrīzī in his Khitat gives a detailed account of over eighty jāmi's, seventy five madrasas, twenty five khānqāhs, twelve ribāṭs and twenty five zāwiyas.

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1. 'Abd al-Qādir b. Muḥammad al-Nu'aymī, al-Dāris fī Tārīkh al-Madāris (Ed. Ja'far al-Ḥasanī, Damascus 1948).
  2. See Ibn Shaddād, Al-A'lāq al-Khaṭīra fī Dhikr Umarā' al-Shām wa'l-Jazīra (Ed. D. Sourdell, Damascus 1953) pp. 110-118 and 118-121.
  3. Ibid., pp. 96-110 and 121.
  4. See Lapidus, op. cit., p. 207.
  5. Ibid., p. 199.



As was stated in the biography of Ibrāhīm al-Ḥalabī, neither the sources contemporary to him nor the modern ones give a detailed account of his life and career in Syria and Egypt. We know, however, he was brought up in Mamluk society and educated at the institutions which existed in that period. It is hoped that this background information may help the reader to understand al-Ḥalabī better through an understanding of the society in which he was raised and the conditions which were prevalent in the Mamluk kingdom.

## CHAPTER II

HISTORICAL BACKGROUND TO AL-ḤALABĪ'S  
LIFE AND CAREER IN THE OTTOMAN EMPIRE

In the Ottoman Empire the beginning of the sixteenth century coincides with the reign of Bāyazīd II, who succeeded his father Muḥammad II in 1481. His younger brother Jam started a campaign against him in a bid to become the sultān but he was defeated in Yenişehir in 1481 and forced to seek refuge with the Mamluk sultān Ashraf Qāytbāy, from whom he received a warm reception.<sup>1</sup> After his second abortive attempt Jam was given asylum by the Knights of St. John on the island of Rhodes in 1482, then he was sent to France and eventually transferred to the custody of the Pope, remaining in Italy until his death in 1495. Although Bāyazīd made an agreement with the captors of his brother and paid them large amounts of money for his expenses, he was handicapped by the fear that a coalition of Christian powers, using Jam as an instrument, might invade the Empire. The Mamluk sultan attempted to take Jam back to Egypt and he even suggested to the Christians a joint war against the Ottomans, offering the Christians at the same time various concessions.<sup>2</sup> Because of Jam's situation Bāyazīd was

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1. See Badā'i, III, 185; İ.H. Uzunçarşılı, Osmanlı Tarihi, II (Ankara, 1949), 159. According to 'Āshīq Pasha-zāda, Sultan Qāytbāy did not pay much attention to Jam. See 'Āshīq Pasha-zāda Tārīkhi (Istanbul, 1332 H.) p. 221.
  2. See S. Tansel, Sultan II Bâyezit'in Siyasî Hayatı (Istanbul, 1966) p. 59. (Hereinafter cited as Bâyezit).



prevented from committing his resources to the limit in any single venture either in Europe or in the east.<sup>1</sup> After Jam's death in 1495 Bāyazīd adopted a new foreign policy, and considerable pressure was put on the west through a powerful Ottoman navy and some expeditions into Hungary, Italy and Austria.

One of the most important developments which affected the Ottoman state during Bāyazīd's time was the revival of Shiite teachings through the Safavid dynasty in Iran and the spread of their ideology among the Turcoman tribesmen in Anatolia, especially in the east and the south. Many of these tribesmen were already unhappy with Ottoman rule. One of the major reasons for this feeling was that:

"As the Ottoman Empire came under a centralized administration, the movements of these tribes were subjected to increasing control. Tribesmen were entered in registers and had to pay regular taxes. The tribes which had led an autonomous life under their beys felt Ottoman rule as an unbearable oppression and tyranny."<sup>2</sup>

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1. N. Itzkowitz, Ottoman Empire and Islamic Tradition (New York, 1972) p. 30.
  2. H. İnalcık, "The Rise of the Ottoman Empire", in The Cambridge History of Islam, vol. I, p. 313.

Another reason was the fanatical attachment of these Turcomans to the sufi orders and teachings of their own tarīqa and shaykh rather than the Sunnite Islam and sharī'a which was upheld by the Ottoman regime which the Turcomans opposed. "The tribes clothed their anti-Ottoman social and political aspirations in the garments of heterodox religious belief, becoming known as kizilbaş<sup>1</sup> - red-head - from the red head covering which

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1. On the origin of this term, Gölpınarlı ("Kızılbaş" in İA, VII, 789) writes: "After the death of Shaykh Junayd his son Haydar, who was known among the sufis of Ardabīl as Pīr or even 'the appearance of God', began wearing a red cap with twelve segments and using a red turban. He also made his followers wear these..." It is also reported that the names of the twelve Imāms, the legitimate successors of the Prophet according to Shiite doctrine, were embroidered on the twelve segments. See W. Hinz, Uzun Hasan ve Şeyh Cüneyd, tr. T. Bıyıkoglu (Ankara, 1948) p. 65. A contemporary source to Ismā'īl claims that 'Alī appeared in a vision to Haydar and taught him how to make this cap emphasising that it must be of scarlet cloth. See E. Denison Ross, "The Early Years of Shāh Ismā'īl" in JRAS, 1896, pp. 254-255.

they wore."<sup>1</sup>

The Safavid dynasty takes its name from Ṣafī al-Dīn, who was born in 1253 in Ardabīl. After various experiences he attached himself to the head of the Zāhidiyya order, Shaykh Zāhid Jīlānī, married his daughter and eventually succeeded him as shaykh when he died in 1301. From then on, however, the order became known as the Safavid order or Ṣafaviyya, with its headquarters at Ardabīl.<sup>2</sup> The Safavids under the leadership of Ṣafī al-Dīn increased their propaganda campaign and won large numbers of converts among the Turcoman tribes. On his death in 1334, Ṣafī al-Dīn was succeeded by his son Ṣadr al-Dīn, who was followed by his son Khwāja 'Alī. During the time of Ṣafī al-Dīn and his son the order kept its Sunnite nature, but under Khwāja 'Alī (1393-1429) "there was a movement away from the orthodox type of mystical belief and practice and for the first time Safavid religious propaganda assumed a Shi'ī flavour."<sup>3</sup> This Shiite tendency grew rapidly, and during the time of Shaykh

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1. H. İnalcık, The Ottoman Empire, (London, 1973) p. 32.

2. R.M. Savory, "Safavid Persia", in The Cambridge History of Islam, vol. I, p. 395.

3. Ibid., p. 396.



Junayd<sup>1</sup> and his son Ḥaydar, Safavid teachings gained wide currency in Anatolia:

"It can be said with certainty that the Qızılbaş were widespread in southern and central Anatolia. In southern Anatolia, as is well-known, the province of Teke İli was a centre for the Qızılbaş mission. There a prominent representative of Shaykhs Junayd and Ḥaydar was active."<sup>2</sup>

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1. It is not very clear whether Junayd was already a Shiite when he came to Anatolia or became one later on. F. Sümer (Safevî Devletinin Kuruluşu ve Gelişmesinde Anadolu Türklerinin Rolü, Ankara, 1976, p. 10) suggests that the second case is quite possible. It is also suggested that Junayd accepted Shiism most probably to get hold of the Shī'ī-bāṭinī elements in Anatolia and Ādharbāyjān, and even to assemble the followers of Shaykh Badr al-Dīn. See Gölpınarlı, op. cit., p. 789.
  2. Hanna Sohrweide, "Der Sieg der Şafaviden in Persien und seine Rückwirkungen auf die Schiiten Anatoliens im 16. Jahrhundert", in Der Islam, 41 (1965) p. 133.

It is also pointed out that another of the Qizilbash centres in Anatolia was the province of Rūm, which consisted of Sivas, Amasya, Bozok, Canik, Çorum, Divriği, and Arapkir.<sup>1</sup> Shaykh Junayd and his successors were regarded as Maḥdī, the Prophet, or even God by the Qizilbash Turks in Anatolia.<sup>2</sup> When Ḥaydar was killed in 1488, his three sons, Ibrāhīm, 'Alī and Ismā'īl were imprisoned by the Aq-Qoyunlu ruler for more than four years. After their release and 'Alī's re-arrest and death in 1494, seven-year-old Ismā'īl was nominated as the successor to 'Alī. During five years of hiding, Ismā'īl and his guardians established close contact with his followers in Ādharbāyjān, Syria and Anatolia, and in 1501 he defeated the Aq-Qoyunlu army and entered Tabrīz, where he proclaimed himself Shāh. Savory writes on the importance of this event:

"Ismā'īl's first action on his accession, the proclamation of the Shi'ī form of Islām as the religion of the new state, was unquestionably the most significant act of his whole reign. By taking this step, he not only clearly differentiated the new state from the Ottoman Empire, the major power in the Islamic world at the time, which otherwise might well have incorporated

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1. Ibid., p. 134.

2. Sümer, op. cit., p. 8.

Persia in its dominions, but imparted to his subjects a sense of unity which permitted the rise of a national state in the modern sense of the term."<sup>1</sup>

In a country where a large part of the population was still Sunnite, to implement the Shiite doctrines was not an easy task. Therefore any opposition to the regime was crushed with severity, some of the Sunnite 'ulamā' were put to death<sup>2</sup> and others fled to areas where Sunnism still prevailed. "Discipline was enforced by dedicated members of the Safavid party known as tabarrā'īyyān, who roamed the streets calling down curses on the 'orthodox' caliphs, Abū Bakr, 'Umar and 'Uthmān, on all enemies of the Twelve Imāms, and on Sunnīs in general."<sup>3</sup>

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1. See Savory, "Safavid Persia", p. 398.
  2. It is reported that "Shāh Ismā'īl burnt a group of his Sunnite opponents to death before the eyes of the Ottoman envoy" and that "when Shāh Ismā'īl entered Tabrīz he killed more than 20,000 people, including religious authorities, women and children, even his own mother." See Sümer, op. cit., p. 24.
  3. See R.M. Savory, "Some Reflections on Totalitarian Tendencies in the Safavid State", in Der Islam, 53 (1976) p. 237. See also M.G.S. Hodgson, The Venture of Islam, vol. 3, Chicago, 1974, p. 23.



Sultān Bāyazīd must have been well aware of the situation and persecution of the Sunnis under the Safavid regime. In a risāla<sup>1</sup> entitled Durrat al-Muwahhidīn wa Dirrat al-Mulhidīn, presented to the sultān, a certain Ibrāhīm b. Shaykh al-Islām Mūsā al-Ḥalabī exhorts the sultan to undertake a jihād against the man he calls "the devil of Ardabīl." He quotes several Qur'anic verses and aḥadīth to prove the permissibility of such a jihād, and gives his reasons, stating that Ismā'īl has claimed mahdiyya and prophethood and what was claimed by the Pharaoh. The author asserts that the "zindīq of Ardabīl" has denigrated the honour of 'Ā'isha, destroyed everything related to 'Uthmān and ordered people to prostrate before him. He has declared forbidden things lawful, including eating pork, drinking wine and even eating human flesh. Bāyazīd is reminded in this risāla of the fact that Ismā'īl and his followers have betrayed the Qur'ān and have burnt copies of it or tied them to the tails of dogs, and that the Sunnite 'ulamā' have been tortured and their blood shed. The example of the Companions of the Prophet who fought at Badr is given to the sultān in an effort to incite him. The writer says that Ismā'īl has done to the people of the true religion more than what Imām Ḥaydar did to the people of

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1. This work is wrongly attributed to our author, Ibrāhīm b. Muḥammad al-Ḥalabī, as will be discussed later on.

Khaybar, and he has done to the ahl al-sunna more than any kāfir or lunatic would do. About Ismā'īl, again, the author writes that if Adam had known that one of his descendants would be like him, he would have divorced Eve and denounced his own humanity. This and similar reminders to Bāyazīd seemed to have had little influence on him, and failed to persuade him to declare jihād against Ismā'īl.

During the decade following 1501, Shāh Ismā'īl enlarged the Safavid Empire by capturing southern and central Iran (1503), Diyarbakır (1505-7), Baghdād and southwest Persia (1508) and Khurāsān (1510). A series of successful expeditions increased Ismā'īl's popularity and credibility among the people, who considered him as the manifestation of God himself.<sup>1</sup> During Ismā'īl's expeditions, thousands of Qizilbash Ottoman subjects joined his army and fought with him.

Despite the persecution of Sunnis under the Safavid regime and intense Qizilbash propaganda in Anatolia, Bāyazīd pursued a peaceful policy. However, the dedication and loyalty of certain groups to the shāh worried the Ottomans and forced them to take some measures as early as 1502; many of the Qizilbash in Teke were branded on the face and expelled to Modon and Coron.<sup>2</sup> When Ismā'īl

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1. See Savory, "Safavid Persia", p. 395.

2. See Sohrweide, op. cit., pp. 141-2; Tansel, Bāyezit, p. 237.



violated Ottoman boundaries in 1507 with the excuse of his expedition against the Dhu'l-Qadr beylik, the Ottomans imprisoned some sympathisers of Ismā'īl who were likely to join him. The ones who were caught carrying weapons were killed.<sup>1</sup>

These precautions did not have a long-lasting effect, as was proved by the Shāh Qulu revolt during the last year of Bāyazīd's reign. Shāh Qulu, who is referred to as "Shayṭān Qulu" in Ottoman histories, was the son of a certain Ḥasan Khalīfa.<sup>2</sup> Father and son were both living in a cave in Teke, and seemed to be leading a pious and ascetic life. They were provided with an annual income by Sultan Bāyazīd, who wanted to receive their prayers. In fact, Ḥasan Khalīfa was one of the most dedicated followers of Ḥaydar and was in charge of spreading Ḥaydar's doctrines<sup>3</sup> in Teke ʾili. Shāh Qulu had been in touch with the Qizilbash in his area and even with those who were in Sofia, Salonica, Serez etc.<sup>4</sup> When, in 1511, Shāhzāda Qorqud, the governor of Teke, left the province for a place nearer to Istanbul, the followers of Shāh Qulu took advantage of the situation and rebelled. They attacked

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1. Ibid., pp. 241-2.

2. Uzunçarşılı, Osmanlı Tarihi, II, 226; Tansel, Bâyezit, p. 248.

3. Sohrweide, op. cit., p. 133; Uzunçarşılı, Osmanlı Tarihi, II, 226.

4. See Tansel, Bâyezit, p. 248.



Antalya, killed the qādī and marched towards Karaman. After capturing Elmalı, Gölhisar and Burdur, Shāh Qulu besieged Kütahya, defeated the government forces led by Ahmad Pasha and marched towards Bursa. Eventually, Grand Vizier 'Alī Pasha and Shāhzāda Ahmad prepared a joint attack on Shāh Qulu, in the course of which 'Alī Pasha and Shāh Qulu were killed and the remaining forces of the latter retreated towards Iran.<sup>1</sup>

Shāh Qulu's revolt demonstrated the power of the Qizilbash in Anatolia and gave a warning signal to the Istanbul government, but Bāyazīd did not do anything more than expel some more Qizilbash from İsparta and Antalya to Modon and Coron.<sup>2</sup> This revolt was to be followed by another one in 1512: a certain Nūr 'Alī gathered about 20,000 Qizilbash around him, defeated an Ottoman force, captured Tokat and caused the khutba to be read in the name of Shāh Ismā'īl. The same type of revolt started also in Çorum and Amasya. Government forces were defeated once more, with 2,000 casualties. Nūr 'Alī escaped and arrived safely in Erzincan; he was to be killed after the Battle of Çaldıran, in 1515, in Ovacık near Tunceli.<sup>3</sup>

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1. See Sümer, op. cit., pp. 32-34.

2. This second deportation appears to be mentioned only by Kamāl Pasha-zāda; see Tansel, Bâyezit, p. 237.

3. See Sümer, op. cit., pp. 34, 35, 39. Tansel states that Nūr 'Alī was killed in a battle near Göksu in 1512. See Bâyezit, p. 257.

During the reign of Bāyazīd II, Ottoman - Mamluk relations deteriorated. Among the reasons for this were the confiscation by the Mamluks of some gifts sent by Indian rulers to the Ottoman sultan, the encouragement and help given by the Mamluks to Jam Sultān in his struggle against Bāyazīd and Mamluk expeditions in 1483 into the Dhu'l-Qadr beylik, which was protected by the Ottomans.<sup>1</sup> In addition to these external reasons, both states must have been motivated by the idea of being the most superior and strongest power in the area. Serious fighting between the two powers took place between 1485-91 in and around Çukurova, and neither side achieved a decisive victory over the other. After 1500 the Safavid danger eased the tension between the Ottomans and the Mamluks,<sup>2</sup> and the added threat the Mamluks faced from the Portuguese made them seek help from the Ottomans.<sup>3</sup>

During the last years of his reign, Bāyazīd, now ageing and in poor health, left all state affairs to his viziers and, as we have seen, remained relatively inactive in the face of the Safavid threat. His son Salīm, the governor of Trabzon, had carried out occasional expeditions into Safavid territory, and Shāh Ismā'īl had made complaints

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1. See Tansel, Bāyezit, pp. 93-97.

2. Ibid., p. 116.

3. See İnalcık, "The Rise of the Ottoman Empire", p. 317.

to Bāyazīd about Salīm's behaviour.<sup>1</sup> Salīm's brothers, Qorqud and Aḥmad, were also preparing themselves, like Salīm, to succeed to Bāyazīd's throne. Salīm's departure, in 1510, from Trabzon to Kaffa and his subsequent march through Rūmeli towards the capital, was aimed at securing for himself a more advantageous position. This first attempt was not successful, and Salīm, defeated in battle near Çorlu, had to withdraw to Kaffa. Aḥmad, the son favoured by Bāyazīd to succeed him, was then summoned to the capital to be enthroned, but a Janissary revolt forced him to withdraw before he had even crossed the Bosphorus. A few months later, Bāyazīd was obliged to abdicate when the Janissaries demanded that Salīm should be made sultan. Therefore in April 1512 Salīm took over the sultanate from his father.<sup>2</sup> Aḥmad was killed in a battle at Yenişehir, near Bursa, in 1513. Shāhzāda Qorqud had already been captured and killed.<sup>3</sup>

Salīm had been aware of the Qizilbash danger for a long time, and immediately after his accession to the throne he was reminded of this problem in a remarkable report submitted to him by one of his subjects. A certain 'Alī b. 'Abd al-Karīm Khalīfa, in his long letter to the sultan, states that the Safavids are to be treated as kāfirs since

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1. See Tansel, Bâyezit, p. 240.

2. Ibid., pp. 299-306.

3. S. Tansel, Yavuz Sultan Selim, (Ankara, 1969) p. 15.



they have insulted the Qur'ān by putting it into the split stomachs of dogs, hanging it around dogs' necks or crushing it under their feet, and they have killed those who did not join them. He also adds that the Safavids are those who have rejected the word of God, refused his religion and destroyed what is laid down by Him. 'Alī b. 'Abd al-Karīm Khalīfa also draws the attention of the sultan to the fact that the Qizilbash in Anatolia will join the Safavids if the necessary steps are not taken soon.<sup>1</sup>

Although Salīm had almost decided to wage war against the Safavids, he wanted to justify this by obtaining a fatwā from the religious authorities. The only fatwā recorded in the histories was issued by a certain Nūr al-Dīn Ḥamza, who asserted that the Qizilbash treated the sharī'a, sunna of the Prophet and the religion of Islam with contempt, that they burnt the books of the sharī'a, killed Sunnite 'ulamā', demolished mosques, cursed Abū Bakr, 'Umar and 'Ā'isha, etc. In this fatwā the Qizilbash are declared kāfirs and mulhids, and fighting against them is described as being incumbent upon Muslims. It is not known whether the rest of the 'ulamā' participated in this fatwā or not. But we have a risāla of similar nature by Kamāl Pasha-zāda, which is sometimes erroneously called a fatwā. In this risāla,<sup>2</sup> the increased activities

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1. See Tansel, Selim, p. 28.

2. For the text of this risāla see M.C.Ş. Tekindağ,  
"Yeni Kaynak ve Vesikaların Işığı Altında Yavuz

and successes of Shiites in many Muslim provinces are noted, then the Shiites are reported to have denied the caliphate of al-khulafā' al-rāshidīn wa'l-a'immat al-mujtahidīn, and cursed Abū Bakr, 'Umar and 'Uthmān. The followers of Shāh Ismā'il are declared infidels, their wives, children and property are considered to be lawful spoil for Muslims, and jihād against the Qizilbash is declared to be fard al-'ayn upon every believer. There is no indication as to the date of composition of this risāla, but it is quite possible that it was produced after Salīm gave the task of denunciation of Shiism to the Sunnite 'ulamā' of his time.<sup>1</sup>

After securing a fatwā to the effect that the Safavids and their supporters were kāfirs and killing them was an

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Sultan Selim'in İran Seferi" in Tarih Dergisi, number 22, 1967, pp. 77-78; and a slightly different version of this risāla is to be found in a manuscript in the Süleymaniye Library, and a fatwā is added at the end of it. It was probably for this reason that this risāla became known as a fatwā and is entitled Fatāwāy-ı Kamāl Pasha-zāda dar Haqq-ı Qizilbash.

(Ms. Süleymaniye, Es'ad Efendi, number 3548, ff. 45a-45b.) Ménage drew attention to this confusion in his article "Kemāl Pasha-zāde" in EI<sup>2</sup>, IV, 879-881.

1. See Tekindağ, op. cit., p. 53.

obligation upon Muslims, Salīm arranged another meeting in Istanbul, which was attended by the leading scholars of ahl al-sunna wa'l-jamā'a, and they declared that fighting against Shāh Ismā'īl and his supporters was more important than fighting against kāfirs. Salīm speeded up the preparations for a fight against the Qizilbash, and during this period several insulting letters were exchanged between him and Shāh Ismā'īl. Among Salīm's preparations was the imprisonment or killing of 40,000 Qizilbash in the Empire who were likely to rebel or fight against him during his campaign.<sup>1</sup>

The expedition began when Salīm set out from Üsküdar in April 1514. On arriving at Konya he visited the tombs of Jalāl al-Dīn Rūmī and Ṣadr al-Dīn Qonawī and other venerated saints. He continued his journey through Kayseri, Sivas and Erzincan and came to Çaldıran. The army of Shāh Ismā'īl and the Ottoman army confronted each other, and after a one-day battle the Safavid army was defeated and Shāh Ismā'īl had to flee. This was on 23rd August, 1514, and Salīm entered Tabrīz a few days later. As a result of this victory the Ottomans took full control of eastern Anatolia, averting the Shiite danger in this region, and put the Sunnites in a stronger position. Savory writes on the effects of Çaldıran on the Safavids:

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1. See Tansel, Selim, p. 38; İnalcık, "The Rise of the Ottoman Empire", p. 315.



"Chaldirān destroyed Ismā'īl's faith in his invincibility. To his Qizilbash Turkish followers, Ismā'īl was both their temporal ruler and their spiritual director. But he was much more than that. He himself, addressing these often illiterate tribesmen in their own tongue and using simple language had fostered the belief that he was the manifestation of God himself."<sup>1</sup>

After ensuring the security of the eastern frontiers, Salīm invaded and annexed the principality of Dhu'l-Qadr in 1515 and then marched down into Syria in 1516. The relations between the Ottomans and the Mamluks had already deteriorated, and the Mamluks were preparing themselves against the expected Ottoman invasion. The two armies met at Marj Dābiq and Salīm won a decisive victory over the Mamluk Sultan al-Ghawrī, captured Aleppo, Ḥamā, Ḥumṣ and Damascus and had the khutba read in his name. While in Damascus, Salīm paid visits to the tombs of well-known saints and sought their blessing. When he visited the tomb of Muḥyī al-Dīn Ibn 'Arabī<sup>2</sup>, whom he respected very

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1. See Savory, "Safavid Persia", p. 401.

2. Some authors, i.e. Uzunçarşılı (op. cit., II, 281) and Evliyā Çelebi (Evliya Çelebi Seyahatnamesi , İstanbul, 1938 ) X, pp. 110-112) claim that the grave of Ibn 'Arabī was not known and Salīm had it found. Evliyā Çelebi's long story of the event is certainly

much, and found it in a neglected and almost ruined state, he ordered the architect Himmāt Bey to restore the tomb and build a mosque, a zāwiya and an 'imāra in its vicinity.<sup>1</sup>

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fictitious. He relates that Ibn 'Arabī, in one of his treatises, predicted that when سی (Salīm) entered شى (Shām, Damascus) the grave of م (Muḥyī al-Dīn) would be discovered. He also says that when Salīm, having arrived in Damascus, was told this, on the same night he saw Ibn 'Arabī in his dream and was told to mount a black horse and go where it took him. Salīm was also given the glad tidings of his imminent conquest of Egypt in his dream. Since we know from more reliable sources (see p. 57 , above) that long before Salīm's capture of Damascus, people used to visit Ibn 'Arabī's tomb, it cannot be true that it had been "lost". Şolaq-zāda does not mention anything about the finding or discovering of the tomb. Evliyā Çelebi's account may be explained as an effort to bring credit upon both Ibn 'Arabī and Salīm, in the eyes of the people, by attributing to them predictions and miraculous dreams. It also reflects the extreme attitude adopted by certain people in favour of Ibn 'Arabī.

1. Muḥammad Hamdamī Şolaq-zāda, Tārikh-i Şolaq-zāda, (Istanbul, 1297 A.H.), p. 412.



All these buildings were completed within four months and opened by Salīm on his way back from Egypt.<sup>1</sup> Salīm offered a Friday prayer there and allocated some waqfs for the upkeep of these institutions.

After the defeat and death of al-Ghawrī, Ṭūmānbāy proclaimed himself sultan of the Mamluk kingdom and refused Salīm's offer of peace on the basis of renunciation of this claim and recognition of his sovereignty. Therefore Salīm crossed the Sinai desert, entered Egypt and defeated Ṭūmānbāy in Raydāniyya in January 1517. Ṭūmānbāy escaped and organized guerilla attacks, but eventually he was captured and executed.

As a result of Salīm's campaigns, Syria, Egypt, Mecca and Medina came under Ottoman control. Salīm assumed the title of "Servitor of the Two Sanctuaries" (Khādim al-Haramayn al-Sharīfayn), and the last Abbasid caliph, al-Mutawakkil, and hundreds of scholars and artists were sent to Istanbul. The Ottomans became "protectors not only of the frontiers but of the entire Muslim world."<sup>2</sup>

Despite Salīm's ruthless measures against the Qizilbash, they were not completely suppressed in the Empire. There was a large number of Safavid sympathizers who demonstrated their opposition to Ottoman rule through violent riots and pillage. Another important example of such uprisings took place in 1519; in Bozok, one of the leading Qizilbash,

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1. See Uzunçarşılı, op. cit., II, 282.

2. İnalcık, The Ottoman Empire, p. 34.



named Jalāl, gathered a large number of people around him and proclaimed himself "Khalīfa-i zamān wa Mahdī-i dawrān". Probably on instructions from Shāh Ismā'īl, he began attacking and looting the nearby villages. He defeated the government forces led by Shādī Pasha and his fame spread rapidly among the Qizilbash tribes. Only after a joint attack by Shādī Pasha, Khusraw Pasha and 'Alī Bey (Shāh suwār oghlu) was the rebellion crushed, and a couple of days later Jalāl was captured alive and his head was sent to Istanbul.<sup>1</sup> This and similar riots show us that there was still a vast gap between the government and the Qizilbash sympathizers in Anatolia who regarded Shāh Ismā'īl as their head and spiritual leader.

When Salīm I died in September 1520, he was succeeded by his son Sulaymān, later to be known as Qānūnī. On his accession to the throne Sulaymān revised some of the policies of his father, for example by lifting the embargo on the silk trade with Iran and freeing some prisoners who had been brought from Tabrīz during Salīm's expedition. He also investigated complaints against unjust governors, and punished the guilty ones.<sup>2</sup> Unlike his father's, Sulaymān's campaigns were mainly directed at Europe; in 1521 Belgrade was captured and thereafter became known as

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1. See Tansel, Selim, pp. 94-98; Uzunçarşılı, Osmanlı Tarihi, II, 283-4.

2. T. Gökbilgin, "Süleyman I" in İA, XI, 101.

dār al-jihād.<sup>1</sup> In the following year Rhodes was forced to surrender to the Ottomans. Sulaymān's first expedition into Hungary was crowned by the famous victory at Mohacs in 1526, and led eventually to the annexation of Hungary in 1541.

During this period Anatolia witnessed several uprisings, which were mainly the result of socio-economic conditions, the government's fiscal policies and religious dissension. In 1527 a certain Suklun Quja, his son Shāh Walī and a Turcoman leader called Dhu'l-Nūn gathered some people around them and rebelled in the Bozok area of central Anatolia, in protest against the amount of tax they were asked to pay. First of all, some of the officials carrying out the cadastral survey (tahrīr) were killed, and government forces led by Khurram Pasha were defeated. However, without achieving any further success these rebels were crushed in 1526.<sup>2</sup> A certain Toñuz Oghlan in Adana, Yanija Bey in Tarsus and Walī Khalīfa, also in Adana, rebelled but they were overcome by government forces. These uprisings are thought to have been Shī'ī-inspired.<sup>3</sup> In 1527 another revolt took place, this time in Karaman and on a large scale. Shiite elements, using the social and economic situation to their advantage, had gathered a

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1. Uzunçarşılı, Osmanlı Tarihi, II, 300.

2. Gökbilgin, op. cit., p. 109.

3. Ibid., loc. cit.

large number of supporters among the Turcoman tribes in the area. The nomad tribes were not happy with the strict registration system. A certain Qalandar Shāh (or Qalandar Oghlu) gathered about 20,000-30,000 supporters and achieved some success against the government forces, but the Grand Vizier Ibrāhīm Pasha defeated these insurgents and Qalandar Shāh was killed in the battle.<sup>1</sup> The last of this series of rebellions took place in 1529, in Adana. It was started by a certain Saydī, who wore a red cap (qızıl-tāj) and with his 5,000 supporters attacked nearby villages. He was joined by another rebel called İnciryemez, but this Qizilbash movement was also crushed, by Pīrī Bey.<sup>2</sup>

While the above-mentioned disturbances were taking place in Anatolia, in Istanbul the 'ulamā' were trying to defend orthodox Islam on the intellectual level against beliefs considered as heretical. The attitude of the government and the 'ulamā' towards any challenge to the creed of ahl al-sunna wa'l-jamā'a is reflected in the trial and execution of Mollā Qābiḍ,<sup>3</sup> who was originally from

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1. Uzunçarşılı, Osmanlı Tarihi, II, 335.

2. See ibid., p. 336; Gökbilgin, op. cit., p. 110.

3. The following account of Mollā Qābiḍ's trial and execution is based on the information given in İ. Peçewī, op. cit., I, 124-126; M.D'Ohsson, Tableau général de l'empire Ottoman (Paris, 1788-91), IV, 150-55; H.G. Yurdaydın, İslām Tarihi Dersleri (Ankara, 1971), pp. 111-114; R.C. Repp, An Examination of the Origins and Development of the Office of Shaikh al-Islam (Ph.D. thesis, Oxford, 1966), pp. 290-292.



Persia and belonged to the 'ulamā' class. According to the Ottoman historians, he had been living a life of vice and debauchery (fisq u fujūr), going to the wineshops and proclaiming that the prophet 'Īsā (Jesus) was superior to the prophet Muḥammad. He interpreted some Qur'ānic verses and aḥādīth according to his own understanding, thus leading the people astray.

Mollā Qābiḍ was arrested and on 15th November 1526 brought before the Dīwān to undergo interrogation before the Grand Vizier, Ibrāhīm Pasha, the Qāḍī 'askar of Rūmelī, Fanārī-zāda Muḥyī al-Dīn Efendi and the Qāḍī 'askar of Anatolia, Qadrī Efendi, who were both, according to Peçewī, "conceited with the love of high rank and office, and did not possess anything in their minds of shar'ī cases." They commenced the interrogation by ordering Mollā Qābiḍ to explain his faith and beliefs, and he did so, putting his case very firmly and explaining his claims by citing various Qur'ānic verses and aḥādīth. The two Qāḍī 'askars, incapable of refuting the assertions put forward by Mollā Qābiḍ, declared him, without further examination, an impious infidel and as such condemned him to death. The Grand Vizier was not satisfied with the handling of the case, and in an angry tone he addressed the members of the Dīwān, stating that only if the errors of the accused could be discovered and his doubts concerning the true faith exposed and refuted should he be sentenced to death. So Mollā Qābiḍ was allowed to leave the Dīwān without any sentence.

Sultān Sulaymān, who was present at the Dīwān behind the grille, had witnessed the proceedings, and when the

viziers came into his presence he said:

"A mulhid comes to our Dīwān, denigrates the high honour of the Prophet, dares to utter nonsense and goes away unscathed; what is the reason for this?"<sup>1</sup>

To this Ibrāhīm Pasha replied that the Qādī 'askars were not sufficiently learned in the sharī'a to silence the "mal'ūn" (Mollā Qābiḍ). The sultān asserted that 'ilm was not confined to the Qādī 'askars, and ordered that the matter should be pursued the next day by the Muftī (Shaykh al-Islām), together with the Qādī of Istanbul. Thereupon Mollā Qābiḍ was taken into custody.

The following day, the Muftī, Kamāl Pasha-zāda Shams al-Dīn Aḥmad, and the Qādī of Istanbul, Sa'dī Chalabī, a close friend of our author Ibrāhīm al-Ḥalabī, came to the Dīwān in the Palace. The Qādī sat next to the Grand Vizier, and the Muftī took his place on a chair in front of them. These new and extraordinary arrangements for the trial<sup>2</sup> so angered the Qādī 'askar of Rūmeli that, overcome with shame and in order to spite those present, he got up from his place and left abruptly. Mollā Qābiḍ was subjected to a new interrogation before his new judges. After listening to Mollā Qābiḍ's case, the Muftī proceeded to

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1. Peçewī, op. cit., II, 125.

2. An ordinary meeting of the Dīwān would not have been attended by either the Muftī or the Qādī of Istanbul.



refute his principles, basing his assertions on different passages of the Qur'ān and hadīth. At the end of the Muftī's refutation, Mollā Qābiḍ was defeated and reduced to silence. Having convicted the accused legally and theologically of his error, the Muftī exhorted him to abjure his claims, to ask forgiveness of God and to return sincerely to the bosom of Islam, renewing his profession of faith. However, nothing could make Mollā Qābiḍ abandon his belief and conviction. After renewed attempts, equally ineffective, to persuade him, the Muftī, who although supreme head of the law exercised no judicial power, indicated to the Qāḍī of Istanbul that he should use the rights of his magisterial authority and formally pronounce the sentence of death upon the accused. Sa'dī Chalabī once more asked Mollā Qābiḍ whether he had adopted the creed of ahl al-sunna wa'l-jamā'a, but the latter still insisted on his views. Thereupon the death sentence was pronounced, and it was carried out immediately after the Dīwān.

The incident of Mollā Qābiḍ was to be followed by a similar one two years later, in 1529. Shaykh Ismā'īl Ma'shūqī, known as "Oghlan Shaykh" was the son of a Malāmī qutb. He was born in Aksaray in 1508, and came to Istanbul around 1527. The Malāmīs claim that Sultān Sulaymān had asked his father to send him to Istanbul.<sup>1</sup> Ismā'īl began

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1. See A. Gölpınarlı, Melâmîlik ve Melâmîler (Istanbul, 1931), pp. 44, 48.



preaching in various mosques in Istanbul and Edirne, and despite his young age he won a large number of adherents, especially among the soldiery.<sup>1</sup> He is reported to have propagated the theory of wahdat al-wujūd<sup>2</sup> and rejected the basic beliefs about the universe and creation held not only by Muslims but also by Christians and Jews. According to Ismā'īl, the human being (insān) is qadīm (existent from eternity), and so long as someone is a human being nothing is forbidden to him. Even what the sharī'a declares forbidden is lawful. He further rejected the concepts of a hereafter and of punishments and rewards therein. He did not believe in paradise and hell. He asserted that whatever a person did for the needs of his body was an act of worship. He held that love was not a divine attraction (ilāhī jazba) but a physical pleasure, and all kinds of sexual relationships should be regarded as the "pleasures of love". Shaykh Ismā'īl further claimed that fasting and giving alms were prescribed only to punish Yazīd, and that the two 'īd prayers were enough for a believer to perform, other religious acts having been prescribed merely to keep the masses ('awāmm) occupied. In his view, "Everybody is God, and what appears in every form (sūrat) is He." The spirit does not die, but passes from one body to another. A child is created by man and

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1. Ibid., p. 48.

2. Ibid., loc. cit.; Repp, op. cit., p. 292;  
Yurdaydın, op. cit., p. 110.

woman, and it is wrong to ascribe this creation to God.<sup>1</sup> Shaykh Ismā'īl also caused his disciples to say in dhikr not "Allāh Allāh" but "Allāhim Allāhim",<sup>2</sup> a pun which must have reminded the orthodox of Ḥallāj al-Mansūr's "ana'l-Haqq".

As illustrated above, Shaykh Ismā'īl's arguments were aimed at destroying the religious beliefs and moral concepts of Muslim society. The government, having just put down a series of religiously inspired uprisings, was determined not to allow any more to occur, especially in Istanbul. Although Sultan Sulaymān warned Shaykh Ismā'īl that he should return to his home town, Aksaray, he ignored this, stating "Our end is known to us."<sup>3</sup>

Eventually he was arrested, examined and sentenced to death on the basis of a fatwā by Kamāl Pasha-zāda. He and twelve of his disciples were beheaded in the At Meydanı in Istanbul, in 1529. Abū al-Su'ūd Efendī (Shaykh al-Islām 1545-1574) gave a fatwā to the effect that anybody who held the same views as Shaykh Ismā'īl should also be

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1. See M. Akdağ, Türkiyenin İktisadî ve İçtimai Tarihi (Istanbul, 1974) II, 64. He erroneously gives the date of this event as 1539.

2. See Gölpınarlı, op. cit., p. 48; Yurdaydın, op. cit., p. 110; Repp, op. cit., p. 292.

3. See Yurdaydın, op. and loc. cit.

sentenced to death.<sup>1</sup> This fatwā must have been issued against allegations that Shaykh Ismā'īl was innocent and killed unjustly.<sup>2</sup> This view prevailed among his followers, and he was held in high esteem, which is reflected in the inscription on his tombstone. This describes him as "qutb al-ʿārifīn wa ghawth al-wāṣilīn shahīd Ismā'īl Ma'shūqī..."<sup>3</sup>

After the Battle of Çaldıran relations between the Safavids and the Ottomans remained tense and no peace agreement was made. When Ismā'īl died in 1524, he was succeeded by his son Ṭahmāsb who followed his father's hostile policy towards the Ottomans. While Sulaymān was engaged in the west he tried to avoid a war with the Safavids in order not to fight simultaneously in two fronts.<sup>4</sup> But in 1533 the governor of Bitlis, Sharaf Khān, placed himself under Safavid protection while the Shāh's governor in Baghdad made an agreement with Ottomans and recognized their sovereignty. These facts made war inevitable, and Ottoman forces marched to the east, taking Tabriz, Baghdad and annexing Ādharbayjān and Iraq (1534-35). In 1538 the amīr of Baṣra recognized Ottoman sovereignty,<sup>5</sup> and

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1. See M.E. Düzdağ, Şeyhülislām Ebussuûd Efendi Fetvaları, (Istanbul, 1972), p. 196.

2. See Gölpınarlı, op. cit., p. 50.

3. Ibid., p. 49.

4. Inalcık, The Ottoman Empire, p. 38.

5. Uzunçarşılı, Osmanlı Tarihi, II, 336-40.



through a powerful naval force the Ottomans took control of the Persian Gulf and Red Sea.

Sulaymān's second campaign against Iran started in 1548 and a series of expeditions continued on and off until 1555 when a peace treaty was signed between the two states in Amasya.<sup>1</sup> Meanwhile Ottoman naval forces gained supremacy in the Mediterranean Sea; their defeat of a crusader fleet at Préveza in 1538 started a new era in Ottoman history. Both at sea and on land they became a "world power", holding balance of power in Europe.

Another of the major events which took place during the period of al-Ḥalabī's life in Istanbul was the dismissal from office of the Shaykh al-Islām Ḡiwi-zāda Muḥyī al-Dīn Efendī.<sup>2</sup> The importance of this incident for our study lies in the fact that al-Ḥalabī shared many of the views of Ḡiwi-zāda, and according to many sources it was on account of these opinions that Ḡiwi-zāda was dismissed.<sup>3</sup>

After holding the post of mudarris in the Ṣaḥn,<sup>4</sup>

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1. Ibid., pp. 348-49.

2. On him see V.L. Ménage, "Ḡiwi-zāde" in EI<sup>2</sup>, II, 56.

3. See ibid; Yurdaydın, op. cit., p. 115; Repp, op. cit., p. 311.

4. The famous complex of eight madrasas (Ṣaḥn-ı Thamān) established in Istanbul by Muḥammad the Conqueror.

Çiwi-zāda had been appointed Qādī of Cairo in 1527-8, then Qādī 'askar of Anatolia in 1537. When Sa'dī Chalabī died in 1539, Çiwi-zāda succeeded him as Shaykh al-Islām.<sup>1</sup> His firm and sincere devotion to orthodoxy and the shari'a is commented upon by the historians. After holding the post of Shaykh al-Islām for three years, Çiwi-zāda was dismissed, becoming the first 'ālim to be removed from this post. The reason is said to have been a fatwā issued by him on al-mash 'ala'l-khuffayn.<sup>2</sup> He denounced the permissibility of this mash, basing his opinion on Shafiite sources. This, of course, put him against the Hanafite view, which permits such a practice and had been applied for centuries with the approval of the Hanafite 'ulamā.

Çiwi-zāda's fatwā, which was contrary to previous ones issued by earlier Ottoman scholars, was rejected in the Dīwān by Abū al-Su'ūd Efendī, who was then the Qādī 'askar of Rūmelī. When this disagreement was reported to the sultan, he gathered the 'ulamā and asked them to investigate the matter and determine whether "Çiwi-oghlu" was on the path of truth or not.<sup>3</sup> The 'ulamā stated that the fatwā of Çiwi-zāda was contrary to the fatwās of previous Muftīs. Some Ottoman chroniclers suggested that

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1. Repp, op. cit., p. 310.

2. The wiping of a wet hand over leather socks in ritual ablution, as an alternative to removing the socks and washing the feet.

3. See Yurdaydın, op. cit., p. 114.

this was the reason for his dismissal.<sup>1</sup> Another contributory factor may have been Çiwi-zāda's view that making a waqf in cash was illegal. This view was in contradiction to that of Abū al-Su'ūd Efendī,<sup>2</sup> who was defending this practice alongside Bālī Efendī, a sufi leader of the Khalwatī order. Çiwi-zāda was supported in his arguments by Birgiwī Muḥammad Efendī, who regarded the cash waqf practice as one of the great evils of his day.<sup>3</sup>

Some historians and modern scholars, however, have expressed the view that Çiwi-zāda's dismissal was caused by his rigid opposition to Ibn 'Arabī and Jalāl al-Dīn Rūmī, who were revered by many celebrated scholars and even by Sultan Sulaymān himself, as the following incident illustrates. Çiwi-zāda is reported to have declared Ibn 'Arabī and Jalāl al-Dīn Rūmī to be heretics. Commenting

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1. See Peçewī, op.cit. I, 49.

2. See J.E. Mandaville, "The Cash Waqf Controversy in the Ottoman Empire" in IJMES, vol. 10, 1979, pp. 289-308.

3. See Muḥammad b. Pīr 'Alī al-Birgiwī, Inqādh al-Hālikīn (in a collection of al-Birgiwī's risālas, Istanbul n.d.), p. 62 and al-Tarīqat al-Muḥammadiyya fī Bayān al-Sīrat al-Nabawiyya (Istanbul, 1287 A.H.), p. 219.



on a bayt of Rūmī which read: "Oh infidels, I create your actions, because I am the absolute ruler; I cause people to be believers or infidels," Çiwi-zāda wrote a fatwā and sent it to the sultān. On reading this fatwā, Sulaymān sent a piece of poetry in answer, in which he expressed his displeasure and disagreement with Çiwi-zāda in an insulting style.<sup>1</sup> Here we have evidence of Çiwi-zāda antagonizing the sultan himself on a particular issue. It does seem likely, therefore, that it was Çiwi-zāda's hostility to the sufis, who enjoyed such wide support in Ottoman society, that led to his removal from office.

During the time he spent in Istanbul, our author al-Ḥalabī witnessed the reigns of three sultans: Bāyazīd II (1481-1512), Salīm I (1512-1520) and Sulaymān (1520-1566) and experienced some of the major events which took place in the new Ottoman capital. It was in this period that the Ottoman Empire produced scholars such as 'Alī Jamālī Efendī, Kamāl Pasha-zāda, Abū al-Su'ūd Efendī, Ṭāshkūbrī-zāda, Birgiwī Muḥammad Efendī etc. Like many of his colleagues, al-Ḥalabī also participated in many of the discussions current in his period, especially in discussions concerning certain aspects of mysticism, music, raqs, samā' and mash. Some of his views, however, were very different from those of his colleagues. Although he found supporters such as Çiwi-zāda and Birgiwī, it may be suggested that his different background and early education played an important

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1. See Yurdaydın, op. cit., pp. 114-115.

role in his holding strikingly different views from those of his celebrated contemporaries.

## CHAPTER III

### THE WORKS OF AL-ḤALABĪ



Al-Ḥalabī's writings consist of three major works and a number of risālas. Apart from the Multaqa 'l-Abhur, which is dealt with in detail in later chapters, al-Ḥalabī wrote a work on ritual purification and worship which was to be known as Ḥalabī Kabīr, and he later epitomized this in a text which was commonly known as Ḥalabī Ṣaghīr. He also wrote a number of risālas on various aspects of religious practice and dogma. The most important of these risālas is his Ni'mat al-Dharī'a fī Nusrat al-Sharī'a which is directed against Muḥyī al-Dīn Ibn 'Arabī and his controversial work Fuṣūṣ al-Ḥikam. Through this risāla al-Ḥalabī became one of the most outspoken critics of Ibn 'Arabī and his followers in the Ottoman Empire during this period.

His risāla on samā' and raqs, which is entitled al-Rahṣ wa'l-Waqṣ li-Mustahill al-Raqṣ, is directed against certain sufi practices and must have put al-Ḥalabī in a position of opposition to most of his colleagues in the Ottoman capital.

The following summary presents a description of his essays and special emphasis is placed upon those risālas which shed light on his own position in respect of the religious controversies current during his lifetime. For the sake of convenience this chapter will be arranged under the following headings:

- A. Commentaries on previous works.
- B. Al-Ḥalabī's own works mentioned by Brockelmann (GAL).
- C. Al-Ḥalabī's own works not mentioned by Brockelmann (GAL).
- D. The works wrongly attributed to al-Ḥalabī.

A. COMMENTARIES ON PREVIOUS WORKS:

1. Ghunyat al-Mutamallī fī Sharḥ Munyat al-Muṣallī

This is a commentary on Sadīd al-Dīn Muḥammad b. Muḥammad al-Kāshgharī's (d. 705/1305) Munyat al-Muṣallī wa-Ghunyat al-Mubtadī.<sup>1</sup> After its composition the work gained a rapid popularity and has been a text-book in the madrasas up to the present century. This work served two purposes; it served as a basic source of detailed information on ritual purification and worship, and at the same time was used as a text for the teaching of Arabic morphology and syntax.

Being a work on the performance of ṣalāt and ṭahāra according to the Hanafite rite, the opinions of Abū Ḥanīfa, Abū Yūsuf, Imām Muḥammad and Imām Zufar are given on various cases and their divergences are also pointed out. Occasionally the views of the other three orthodox rites are also offered. The legal decisions and views of the later jurists are given and these are referred to by the term al-Muta'akhkhirūn.

The sources of information are also mentioned in the text, these being the classic Hanafite works and more recent fatāwā collections.

This commentary is a work of about 620 pp. and is known as Halabī Kabīr. It has been printed in Turkey (1295, 1325 A.H.),<sup>2</sup> and also in India (1898).<sup>3</sup>

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1. See KZ, II, 1886; GAL, SI, 659; GAL, I, 478.

2. See A.S.Fulton, Supp. Catalogue of Arabic Printed Books in the British Museum, p.465

2. Mukhtaṣar Ghunyat al-Mutamallī fī Sharḥ Munyat  
al-Muṣallī

This work is an abridgement of the above commentary, and by virtue of its concise form it is known as Halabī Ṣaghīr. Like Halabī Kabīr, it was studied as a text in the madrasas. The contemporary scholar Hasan Ege writes that at a young age he observed that Halabī Ṣaghīr was one of the textbooks of students of Arabic, and served a two-fold purpose; being firstly a reading text of Arabic language and grammar, and secondly a source of necessary knowledge concerning ritual ablution and prayers.<sup>1</sup> In his introduction al-Ḥalabī says that his first commentary contained too much detail for beginners and for the common people and that to encourage the student he has abridged it and omitted some unnecessary detail.

This work, of about 260 pp. in the published edition, was translated into Turkish by Ibrāhīm b. 'Abdallāh b. Ibrāhīm al-Bābāṭāghī in 1110/1698. Both the Arabic text and the Turkish translation have been reprinted several times (1239, 1253, 1256, 1265, 1277, 1284 A.H. etc.) A modern Turkish version of the text was prepared by the above mentioned H. Ege and published. (See footnote 1)

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1. See H. Ege, Halebî-i Sağîr ve Tercemesi, (İstanbul, 1973) introduction, p. V.



### 3. Sharḥ al-Abyāt<sup>1</sup>

This risāla is devoted to a commentary on three bayts by an unknown author. Using the verses as a text, al-Ḥalabī attempts to reconcile the strictly orthodox approach to religion with the sufi path. Although <sup>elsewhere</sup> he often adopts a hostile attitude towards many of the sufi sects, especially towards the followers of Ibn 'Arabī, here he selects for favourable comment the moderate attitude to both positions expressed in these lines. Al-Ḥalabī, ever intolerant of the extreme practices of some sufi orders, does not, in fact, seem unwilling to comment on sufistic verse in the manner of the Islamic mystic. The text reads:

وَالْأَتَيْتُمُ بِالصَّعِيدِ وَالصَّخْرِ	تَوْضَاءُ مَا الْغَيْبِ إِنْ كُنْتَ ذَا سِرٍّ
وَصَلَوْتَ الْفَجْرَ فِي آخِرِ الْمَصْرِ	وَقَدِّمَ إِمَامًا أَنْتَ كُنْتَ أَمَامَهُ
فَإِنْ كُنْتَ مِنْهُمْ فَامْنِجِ الْبَرَّ بِالْبَحْرِ	فَهَذِي صَلَوةَ الْعَارِفِينَ بِرَبِّهِمْ

Literal translation:

1) If you are a possessor of mystery perform your ablutions with the water of the invisible world;

If you are not, then perform the substitute ablution with earth and rocks.

2) Put before you what you are in front of, and offer the Dawn prayer at the end of the afternoon prayer.

3) These prayers are the prayers of the Knowers of God and if you are one of them mix land and sea.

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1. Süleymaniye, Giresun, Ms. no: 109/8. It is not mentioned by Brockelmann.

The following is the translation of the main part of the risala:

Ablution is the foundation of prayer,  
If you are the possessor of mystery begin your prayer with ablution, which is watching the heavenly world (al-'ālam al-malakūt). If you are not able to do this which is natural and normal (the common form of ablution), then use the substitute (tayammum), which is observing the material world, in which earth and rocks correspond with beauty and purity.

In your prayers put death before you although it normally follows you until it overtakes you; do not lose sight of it.

This life is like the day which begins with dawn and ends with sunset, therefore after the asr prayer comes the fajr. The sufi is one who disregards past, and future. The beginning and the end of his life is the moment he is living, thus he offers his prayers in this spirit and considers them as if they are the first he is offering.

These two types of prayers are the prayers of Knowers of God ('ārifīn bi'llāh).

Mix Sharī'a (the law) with Haqīqa (the truth) and follow a way in between. Sharī'a is likened to land because of the latter's variety

like the trees and stones; whereas Haqīqa is like the sea in its vastness. One who is 'ārif bi'llāh should find the mean between Sharī'a and Haqīqa, since every Sharī'a without Haqīqa is useless and every Haqīqa without Sharī'a is worthless.

In theological terms al-Ḥalabī is only stating an accepted position adopted by most moderate men of religion. His formulation echos that of other scholars such as al-Qushayrī (376/986-465/1072) who wrote:

The Sharī'a is concerned with the observance of the outward manifestations of religion [i.e. rites and acts of devotion ('ibādāt) and duties (mu'āmalāt)]; whilst Haqīqa concerns inward vision of divine power. Every rite not informed by the spirit of Reality is valueless, and every spirit of Reality not restrained by the law is incomplete. The law exists to regulate mankind, whilst the Reality makes us know the dispositions of God. The law exists for the service of God, whilst the reality exists for contemplation of him.<sup>1</sup>

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1. Quoted by J.S. Trimingham in The Sufi Orders in Islam, p. 142.



Al-Ḥalabī's reference to the material world and heavenly world is reminiscent of earlier sufistic formulations. For example,

God says: Every phase between Nāsūt and Malakūt is the Sharī'a, and every phase between Malakūt and Jabarūt is the Tarīqa, and every phase between Jabarūt and Lāhūt is the Ḥaqīqa.<sup>1</sup>

However, al-Ḥalabī is hardly likely to repeat that which had been so succinctly formulated by earlier theologians, unless the question had become a subject of dispute among members of his own society. We can, therefore, presume that he intended this risāla to act as an argument for moderation in the vexed question which had become the centre of the debate between the strict jurists, who held that only the Sharī'a could lead a person to God, and the more eclectic sufi orders whose mystical approach to the Creator alarmed many moderate thinkers in society.

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1. Ibid., p. 160.

4. Mukhtaṣar<sup>al-</sup>Jawāhir al-Muḍiyya fī Tabaqāt al-Ḥanafīyya

As can be understood from the title, this is an abridgement of the Jawāhir al-Muḍiyya by Abū Muḥammad 'Abd al-Qādir b. Abi 'l-Wafā (d. 775/1373).<sup>1</sup> It begins:

بسم الله الرحمن الرحيم الحمد لله الذي ينشئني و يبيد  
و يبدى و يعيد و يفعل ما يريد لا يسئل  
عما يعمل و ليس بظلام للعبيد . . . الخ

After the introduction the biographies of Abū Ḥanīfa and Abū Yūsuf are first given, and then other biographies follow according to alphabetical order.

At the end of the copy<sup>2</sup> used here, information on the seven categories of the fuqahā' is also given on two ff.

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1. See GAL, II, 96, also SII, 89.

2. Süleymaniye, Şehit Ali Paşa, Ms. No:1941, in naskh, and copied in 974/1566.

5. Silk al-Nizām li Jawāhir al-Kalām

This work of al-Ḥalabī is a commentary on the Jawāhir al-Kalām by 'Aḍud al-Dīn 'Abd al-Rahmān b. Ahmad al-Ījī (d.756/1375).<sup>1</sup> The work begins :

الحمد لله الذي أيدنا في مواقف توحــــيده  
باقامة الحجج وأطلعنا على مقاصد ... وبعد فيقول  
الفقير ابراهيم الحلبي الحنفي عمله الله بمزيد  
لطفه الخفي لما رأيت مختصر المواقف . . الخ

Then the author gives his reasons for writing a commentary on the Jawāhir:

This work contains the knowledge of the science of kalām with evidences and explanations ...

I decided to write a commentary to uncover its secrets, to make its fruits available to the students, and to lift its undisturbed veil ... etc.

The work was dedicated to the Grand Vizier 'Alī Pasha and this places the date of its composition sometime before 917/1511. The commentary copy used here consists of 168 ff. and was copied in 1152/1739 by a certain Sulaymān Efendī.<sup>2</sup>

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1. See GAL , II, 270 no. VI (not in S.)

2. Süleymaniye, Hamidiye, Ms. No. 748.



6. Sharḥ al-Qaṣīda

This work is one of the last writings of al-Ḥalabī and it was written in the year of his death, 956/1549. It is a commentary on a qaṣīda written by a well-known Shafiite scholar, Sharaf al-Dīn Ismā'īl b. Muqrī al-Yamanī<sup>1</sup> (d. 837/1433). The work begins:

الحمد لله رب العالمين و به نستعين و صلى  
الله على سيدنا محمد و على آله و صحبه اجمعين . . .

After citing the text, al-Ḥalabī first analyses the sentences grammatically, then provides an explanation. The copy used here is in the collection of Es'ad Efendī, No: 1441/4 in Süleymaniye Library, and it is not mentioned by Brockelmann.

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1. On him see Shadharāt, VII, 220,  
and GAL, II, 190

B. AL-ḤALABĪ'S OWN WORKS MENTIONED BY BROCKELMANN

1. Ni'mat al-Dharī'a fī Nuṣrat al-Sharī'a<sup>1</sup>

One of the most striking aspects of al-Ḥalabī is his rigid hostility towards Ibn 'Arabī and harsh criticism of his philosophy and works, particularly the Fuṣūṣ al-Ḥikam, which is reflected in his principal work in this respect entitled Ni'mat al-Dharī'a fī Nuṣrat al-Sharī'a. This work, although formally described as a risāla, occupies some 82 folios and in fact may be regarded as al-Ḥalabī's major work (excluding commentaries) after the Multaqā. In it al-Ḥalabī criticises almost every comment made by Ibn 'Arabī. His prose is punctuated with remarks such as "observe this stupidity and foolishness" (f. 40b), "The enemy of God has lied (f. 62a), "observe this infidelity" (f. 8b).

In this work, al-Ḥalabī's method of presentation consists of first quoting from the Fuṣūṣ and then expressing his own opinions on the subject. The work begins:

الحمد لله رب العالمين و صلوته وسلامه على خير  
خلقه اجمعين . . . وبعد فهذه ابحاث سخت للخاطر  
القائر على مواضع من كتاب الفصوص قصدت بها  
نصرة الشريعة وأهلها وبيان ضلال أهل الجودية وجهلها . .

At the beginning of his risāla he quotes Ibn 'Arabī:

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1. See GAL, II, 571 no. 5, SII, 643 no. 5. Ms. in Süleymaniye, Fatih, no. 2280, ff. 1-82.

I saw the Prophet in my dream, in Muḥarram 627/1229 in Damascus, holding a book in his hands which he then handed to me and said, "Take this, the Kitāb al-Fuṣūṣ, and pass it to the people so that they will benefit from it ..."

Al-Ḥalabī then proceeds to comment:

This dream cannot be true and cannot be sent by the Prophet, since it [the book] contradicts the Sharī'a when it maintains ideas such as "the Universe is the reflection of God." It also disparages the ahl al-Sharī'a and praises the infidels... The Prophet would not enjoin things which are ambiguous and could thus be interpreted differently and which would contradict the Sharī'a, 600 years after its establishment.<sup>1</sup>

Ibn 'Arabī's theory of wahdat al-wujūd crops up and is rejected in every chapter of the risāla. In the chapter on the prophet Noah, for example, al-Ḥalabī quotes the following passage from the Fuṣūṣ:

The call to God is a trick worked on those whom you call, since there is no worshipper ('abd) except Allāh to everything worshipped (ma'būd).<sup>2</sup>

"If you contemplate Him through Himself, it is He who is contemplating Himself" quotes al-Ḥalabī from the chapter on Ismā'il. He further quotes from the chapter on Hūd:

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1. See Ni'mat al-Dharī'a, ff.1-3.

2. Ibid, f.9b. The passage is differently understood by 'Afīfī, in his edition of the Fuṣūṣ, (Beirut, n.d. p.71).



It is He (God) that is the essence of things and things are limited and their limitations are different, this is why He is limited by the limit of every limited thing; He is moving in the names of creatures, and the Universe is in his image and He is the spirit of it.

The one who has a mind (qalb) knows the changing of Truth (haqq) into different images of things through himself, he knows himself, but himself is not other than the otherness of the Truth

And from the chapter on Moses:

... Moses knew the matter better than Aaron did, so he had the knowledge of what the people of the calf worshipped. He was aware of the fact that God enjoined us not to worship any other than himself, whatever He decides happens. That is why Moses blamed Aaron when the matter took place because he denied the calf and was impatient.<sup>1</sup>

Al-Ḥalabī understood from Ibn 'Arabī's explanation of the above passage that the latter drew no distinction between the calf and God. According to Ibn 'Arabī's theory, God is the essence of everything, for he holds: "An 'ārif sees Haqq in everything and He is the essence of all things." Ibn 'Arabī's theory of wahdat al-wujūd draws him into controversy with certain Islamic theologians and he shows little reluctance in expounding a theory which was so controversial. As a result of this theory, he attempts to justify all controversial, and indeed even condemned,

1. See Ni'mat al-Dharī'a, ff. 61b, 62a.

actions which took place in earlier times. For example, as we have seen above, al-Ḥalabī claims that Ibn 'Arabī attempts to justify the actions of the people who worshipped the calf during the time of the prophet Moses. Ibn 'Arabī even goes to the extent of defending the Pharaoh, who said to his people "I am your supreme Lord" (Qur'ān, 79:24). Ibn 'Arabī elaborates thus:

... that is to say although you may all be Lords in one respect, I am the supreme Lord because of the apparent authority which has been given to me. The magicians knowing the truth of what he said did not contradict but confirmed it saying, "So decree what thou wilt ... Thou wilt end for us only the life of the world (Qur'ān, 20:72). Therein is the sense of the words "I am your supreme Lord". For if (the Supreme Lord) is none other than the Divine essence, the individual form that assumed this essence was that of the Pharaoh <sup>1</sup>...

Al-Ḥalabī rejects this theory completely and accuses Ibn 'Arabī of distorting the meaning of the verses of the Qur'ān and says that God explicitly stated the position of the Pharaoh in the Qur'ān: "So God seized him and made him an example for the after (life) and for the former. Lo, herein is indeed a lesson for him who feareth." (Qur'ān, 79:25-26).<sup>2</sup>

1. See Fuṣūṣ, tr. The Wisdom of the Prophets, p.113.

2. See Ni'mat al-Dharī'a, f.71b.

Ibn 'Arabī's extreme attitude in his wahdat al-wujūd theory makes him use the Qur'anic verses in support of it. He holds: "There is no servant ('abd) except God (Allāh) in every deity (ma'būd).<sup>1</sup>" In the light of this he interprets " ... and thy Lord has decreed that Ye shall not worship other than him" (Qur'ān, 17:23) as " ... thy Lord has said that nothing is actually worshipped except him"; here Ibn 'Arabī has completely altered the commonly accepted meaning of the verse. Al-Ḥalabī gives the following short answer to this :

If it (Ibn 'Arabī's above statement) were correct, God would have not forbidden the worship of other deities. For example in the Qur'ān (109:1-4) He says, "Say, O disbelievers! I worship not that which you worship, nor worship ye that which I worship, and I shall not worship that which ye worship".<sup>1</sup>

Ibn 'Arabī has applied his theory to every verse of the Qur'ān that he thought was suitable. For example, he says:

When Noah's people said (71:23), " ... Forsake not your gods, Forsake not Wadd, nor Suwā'ū, nor Yaghūth and Ya'ūq and Naṣr", they were not refusing the call for God, in fact they were answering it, since God is the essence of everything and He is everywhere. When God says, "Thy Lord has decreed that you worship

1. See Ni'mat al-Dharī'a, f.9b.



none but him" (Qur'ān, 17:23) by this He meant He is everywhere and whatever you worship is a manifestation of God.

Al-Ḥalabī does not accept any of these views and holds:

were to  
Even if we accept that the world is the corporeal appearance of God, this is still not enough to justify Ibn 'Arabī's views, since God has ordered us to worship him in a specific way. Thus He did not ask us to worship all his forms generally.<sup>1</sup>

"Moreover," says al-Ḥalabī, "He has prohibited our worship of some definite forms (i.e. idols). If God has different forms you must worship all of them. If you worship some of them there will definitely be some others, since things are uncountable in the world." By this argument al-Ḥalabī tries to refute Ibn 'Arabī's above-mentioned theory.

Al-Ḥalabī's criticism of Ibn 'Arabī is also extended to the area of rhetoric. For example, in the treatise (f. 54a) the Qur'anic verse 42:11, "laysa ka-mithlihi shay'un" becomes the subject matter of the discussion; al-Ḥalabī first quotes from the Fuṣūṣ:

In the verse "laysa ka mithlihi shay'un", God declared himself free from defect and made a comparison (to Himself) (nazzaha wa shabbaha) (by saying) "He is the Hearer, the Seer." He creates a

1. Ibid.

comparison, although this verse is the greatest to be revealed declaring God's freedom from defect, but it is however not free of comparison (tashbīh) through the agency of the kāf. He knows Himself best and He has said nothing of Himself except that we have mentioned it.

Al-Ḥalabī in his refutation holds that by the above passage Ibn 'Arabī manifests his ignorance of the construction of literary Arabic and the rules of the science of rhetoric. He further suggests: "If this is not the result of a genuine ignorance then it must be the outcome of a deliberate one." The Qur'anic verse in question in fact has been used several times by Ibn 'Arabī and interpreted in the light of his controversial theory of wahdat al-wujūd. For example, in the chapter on the prophet Noah, Ibn 'Arabī held:

He (Noah) in his call did not compromise between a likening (tashbīh) and freeing God from defects (tanzīh) as in "laysa ka mithlihi shay'un".

Ibn 'Arabī's efforts to compromise between two opposite concepts, were later carried on by his supporters and the matter became even more complicated.

Al-Ḥalabī's arguments on the matter are based on the function of the letter kaf which preceded the word mithl. He maintains that from this Qur'anic verse only tanzīh

(tanzīh al-mahd) is understood in the most eloquent way. He adds that this kaf does not function as the one which is normally used to compare, and holds that the clause "laysa ka mithlihi shay'un" is the equivalent of "laysa mithlu mithlihi shay'un". In fact the same point has been given by al-Rāzī in his well-known commentary.<sup>1</sup> Al-Rāzī further adds: "'laysa ka mithlihi shay'un' means 'laysa ka huwa shay'un' in an exaggerated manner." He reports that Jahm b. Ṣafwān held:

The meaning of this verse is to elucidate the fact that God cannot be called by the name of a "thing" (shay') since for every "thing" there can be an equivalent ...<sup>2</sup>

It should be noted that the above mentioned Qur'anic verse presented one of the most difficult problems not only for the commentators on the Qur'ān but also for the rhetoricians long before al-Ḥalabī's time. Al-Zamakhsharī (d. 538/1144), on the interpretation of the verse, suggests that this is a negation by the method of metonymy and gives an example:

People say "one like you should not act miserly". Here, the miserliness is divorced from the "one" but in fact the negation is meant to apply to the second person "you",

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1. M. Fakhr al-Dīn al-Rāzī, Mafātīḥ al-Ghayb (Cairo, 1324/1906, second edition), VII, 380.

2. Ibid., same page.



thus the sentence is to be understood as

"You should not act miserly." ...<sup>1</sup>

Al-Ḥalabī expands the argument by referring to a well-known example which is used by famous rhetoricians such as al-Qazwīnī (d. 739/1338) and al-Taftazānī (d. 792/1390) in their chief works. The method applied by them for the explanation of the above-mentioned verse is "to negate something by negating its indispensable".<sup>2</sup> Their example quoted by al-Ḥalabī is:

"Laysa li Akhī Zaydīn Akhun" here Akhī Zayd is malzūm and Akh is lāzim; therefore for the brother of Zayd it is indispensable to have a brother who is Zayd, and the conclusion must be that Zayd is the brother of 'Amr, and 'Amr is the brother of Zayd. Thus the correct and logical negation should be "laysa li Zaydīn Akhun".

Our author al-Ḥalabī attempts to apply the same technique to the problem in question and consequently takes the kaf for a complete negation. He reaches the same conclusion reached by al-Taftazānī: "By the negation of the likes of the like of God, the like of God is also negated." In his version Ibn 'Arabī tries to derive credence for his theory of waḥdat al-wujūd by somehow

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1. al-Zamakhsharī, al-Kashshāf, III, 65 on Qur'ān, 42:11.

2. "Nafyu shay'in bi nafyi lāzimihi."

exploiting the ambiguity in the double comparison of laysa ka mithlihi. In fact, experts on the subject have classified this type of construction as being "for a complete negation" and rhetorical device to be treated as figurative speech. (majāz).<sup>1</sup> Al-Ḥalabī in his arguments mainly referred to al-Taftazānī's arguments and used them to refute Ibn 'Arabī's views.

Ibn 'Arabī's understanding of <sup>certain</sup> Qur'anic verses and terms was also criticised by al-Ḥalabī and the former was accused of distorting the meaning of the Qur'ān and corrupting the Sharī'a. Al-Ḥalabī makes several quotations from Ibn 'Arabī and attempts to refute his views. For example, Ibn 'Arabī claims that the punishment, 'adhāb, in Hell is so called, not because of its bitterness and painfulness, but on the contrary because of its sweetness, 'udhūba! Al-Ḥalabī refutes this claim by quoting a Qur'anic verse, which describes sufferings of the people in Hell, who would say: "Our Lord, Oh, bring us forth from hence! If we return to evil then indeed we shall be wrong-doers" (23:107). Al-Ḥalabī adds that, if it were the case claimed by Ibn 'Arabī the people in Hell would not ask for their release from there. Here, it is very clear that Ibn 'Arabī's suggestion is not an acceptable one; from an orthodox viewpoint it simply looks baseless and illogical.

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1. See 'A. al-Jurjānī, Kitāb Asrār al-Balāgha, edited by H. Ritter (Istanbul, 1954), p. 384.

Ibn 'Arabī puts forward yet another suggestion about the Qur'anic verse 51:41 :

... and in the tribe of 'Ād (there is a portent) when We sent the fatal wind against them.

Ibn 'Arabī holds that the word wind (rīh) comes from comfort (rāha), therefore it was not a punishment, but a reward.

Al-Ḥalabī does not go into detailed explanation and -retorts (addressing Ibn 'Arabī): "May God put you in this comfort."<sup>1</sup>

Al-Ḥalabī gives another example of what he calls Ibn 'Arabī's distortion, from the chapter on the prophet Noah (71:7). The verse reads:

And Lo, whenever I call unto them that Thou mayest pardon them, they thrust their fingers in their ears and cover themselves with their garments and persist (in their refusal) and magnify themselves in pride.

Ibn 'Arabī's interpretation is, however, far from the commonly accepted meaning, and, in fact, opposite to it. He held that by thrusting their fingers in their ears and covering themselves with their garments Noah's people have answered his call in a positive way. Ibn 'Arabī here twists the meaning of the word yaghfir to mean "cover" rather than "pardon". Al-Ḥalabī clarifies this point and says:

1. See Ni'mat al-Dharī'a, f.23b.



When Noah said to his people, "yaghfir lakum", he meant "min dhunūbikum" not "ajsādikum", which they were covering with their garments.

He adds:

Noah did not mean what was presented by this "deviant" (Ibn 'Arabī), who builds everything on his vicious theory.<sup>1</sup>

Al-Ḥalabī extends his criticisms to syntax and grammar and gives examples of Ibn 'Arabī's misuse of the Arabic words in order to fit them to his theory. For example, the verses in the Qur'ān 71:11-12 read:

He will let loose the sky for you in plentous rain. And He will help you with wealth and sons and will assign unto you gardens and will assign unto you rivers.

Ibn 'Arabī understood midrār as the abstract knowledge, al-ma'ārif al-aqliyya, and claimed that the word amwāl does not mean wealth or money but it means inclination towards God. Al-Ḥalabī describes this statement as being "hallucinations" and explains that amwāl is the plural of māl which derives from the root M-W-L, whereas the plural of mayl, inclination, is amyāl or muyūl and they are derived from M-Y-L. He again repeats his accusation that Ibn 'Arabī distorted, twisted the terminology of the Qur'ān

1. Ibid. f.8a.

and treated the words as if they were from another language.<sup>1</sup>

Al-Ḥalabī also accused Ibn 'Arabī of attributing lies to God and His messengers, looking down<sup>on</sup> the prophets, fabricating stories and telling lies, etc. He, on this last point, relates a story by Muḥammad b. 'Abd al-Salām through Imām Ibn Daqīq al-ʿĪd and Abu 'l-Fath al-Ya'marī in which Ibn 'Arabī is alleged to have said that he once married a jinn lady and they had three children, etc.<sup>2</sup>

Although Ibn 'Arabī lived almost three centuries before al-Ḥalabī's times, the latter developed an enormous hostility towards the former, because of his teachings and works. In several places, in works, this hostility takes a form of personal attack rather than formal criticism. Had they been contemporaries this type of harsh criticism could have been regarded as being moderate, but almost three centuries after someone's death, to address him, "Oh! you stupid man led astray", or similar statements would suggest that the criticisms are of an excessive nature. Considering al-Ḥalabī's piety, his nature and his exceptionally quiet life-style, one would hardly expect him to be such an excessive critic of a writer, especially a dead one.

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1. Similar remarks have also been made by al-'Afīfī in his The Mystical Philosophy... See pp. 191-194.
  2. This story is also related in al-Dhahabī's Mizān al-I'tidāl, III, 659-60.

However, we can also assume that the reason for such a vituperative style was al-Ḥalabī's piety and his strong orthodox attitude towards religion. It is very clear that he saw himself protecting the Sharī'a from what he calls "the corruption by Ibn 'Arabī and his devilish theories."

Although these strong criticisms were directed at Ibn 'Arabī, the contemporary followers of him also, naturally, came under the same attacks. In a society where there was a large group of Ibn 'Arabī's followers and supporters, including Sultans and grand viziers and even Shaykh al-Islāms, to criticise Ibn 'Arabī to this extent shows our author's determination, courage and sincerity in his arguments.

However, despite the validity of his arguments and the scientific value of it, his treatise seems to have had very little effect on the followers of Ibn 'Arabī. Thus, al-Ḥalabī still owes his fame and popularity to the Multaqa 'l-Abhur and his commentaries on the Munyat al-Muṣallī, rather than to these polemics.



2. al-Rahṣ wa'l-Waqṣ li Mustahill al-Raqṣ

In this important treatise<sup>1</sup> al-Ḥalabī condemns the sufis who practice raqṣ and samā'. Although it reflects the views of the author, it was largely derived from earlier works, from which many quotations were taken. This treatise is significant in that it shows his very conservative attitude towards the sufis and their devotional practices.

The conflict between the sufis and certain of the 'ulamā' on the permissibility of raqṣ and samā' goes back to the early centuries of Islam. Since neither side could produce convincing evidence the matter remained controversial. Many distinguished 'ulamā' gave fatwās for and against raqṣ and samā'; many books and treatises were written on the subject<sup>2</sup>, but no reasonable and objective decision had been reached. Disregarding the arguments in favour of raqṣ and samā', the opposing views of al-Ḥalabī may be summarized as follows:

He begins with a criticism of those who claim to be sufis and practice raqṣ:

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1. Kayseri, Raṣid Efendi Kütüphanesi Nu: 429, ff. 65-72; Antalya Tekelioğlu Nu: 900/3, ff. 30-38, see GAL, II, 571 no. 3, also GAL, SII, 643 no. 3.
  2. For detailed arguments and comprehensive bibliography see S. Uludağ, İslâm Açısından Müsikî ve Semâ, (Istanbul, 1976).

In true taṣawwuf, this practice is a nasty and rude thing.

And he adds:

People who accept raqs and la'b as a part of religion and include them in their worship, are attributing lies to God.

He then describes the dance as a circle of men, turning around, moving their hands forward and backward and their heads up and down. As a preparation for his further arguments, he gives the meaning of the words la'b, lahw and 'abath.

"If a free act is not based on sound reason for the purpose of worldly or religious benefit, it becomes 'abath or la'b." After quoting from various scholars in support of this, he gives a tradition, narrated by al-Tirmidhī<sup>1</sup> and Ibn Māja<sup>2</sup>, which says: "Every worldly lahw is worthless except the following three: practice with the bow, taming horses, and love-games with one's wife." Basing himself on this tradition al-Ḥalabī argues that every lahw is unlawful with the exception of these three. La'b, lahw and 'abath being unlawful, it follows that raqs and dawaran, being abath, are unlawful. He then quotes from al-Bazzāzī and al-Qurtubī: "Singing and dancing are prohibited by ijmā' (consensus) in the view of al-Mālik, al-Shāfi'ī and Ahmad b. Ḥanbal."

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1. IV, 174, No: 1637.

2. II, 940, NO: 2811.

He adds: "I myself saw the fatwā of Shaykh al-Islām al-Kaylānī to the effect that whoever accepts raqs as permissible is a kāfir, since it is prohibited by ijmā'."

Another quotation is taken from the Fatāwā <sup>in</sup> al-Tātārkhāniyya, which to the question, "Is it permissible to dance and practice samā'?", the answer was "No."

In the development of his treatise al-Ḥalabī refutes the arguments for raqs and samā': "Some people use certain Qur'ānic verses<sup>1</sup> in support of their arguments. This is absolutely ridiculous and unacceptable. One must abjure dancing, which is condemned by religion, during one's remembrance of God." He then compares performing samā' with drinking alcohol:

In fact, samā' is more dangerous than drinking, because the one who drinks is aware that alcohol is forbidden, and he might feel regret and repent. Moreover, people disapprove of his act and look down on him. But people who practice samā' believe their dance is worship, so they neither repent nor regret, and indeed get high respect from the people.

He goes on:

The most unlawful (ḥarām) thing is to attribute a lie to God, who is the absolute

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1. Such as the verse, 39:75.



ruler and decides what is lawful and what is not. Apart from God, nobody is entitled to make the permissible forbidden or vice versa.

Al-Ḥalabī then quotes from Shaykh 'Izz al-Dīn 'Abd al-Salām (d. 660 A.H.):

Dancing is an action followed by the unintelligent and is suitable only to women. It bears resemblance to the behaviour of some animals, like monkeys. Some people think dancing is a means of getting nearer to God, therefore it is regarded as a virtue rather than sin. This is worse than immorality (fisq), which is committed by a person who is aware of its nature.

In this treatise the author uses sources from sects other than the Hanafite. In condemning the attribution to the Prophet of a statement approving sama he agrees with a certain Shafiite scholar al-Damīrī who says:

One who attributes samā' to the Prophet should be taught a lesson and be punished severely; he should be included in that

group which attributes false statements to the Prophet, and accordingly be relegated to hell.<sup>1</sup>

Those who use the Qur'anic verse 39:75, " ... and thou seest the angels thronging round the throne, hymning the praises of their Lord " for their whirling are also condemned by the author:

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Those dare to compare their undesirable whirling with the circumambulation of the Ka'ba and angels' circling around the 'arsh in this wise compare their sin with the obedience of the angels. Their whirling and the circumambulation of the Ka'ba cannot be compared, since the latter act has a divine origin and the Ka'ba is unique.

Al-Ḥalabī also opposes performing the dhikr (remembrance of God) in a loud voice, as well as loud recitations at funeral ceremonies. To support his argument he cites certain traditions, and adds:

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1. He is thinking here of the tradition which says:

"Whoever tells a lie against me intentionally, then let him take his seat in Hell-fire." See Sahīh al-Bukhārī, Text and Eng. Tran., I, 83.

In the view of Hanbalite scholars, raising of the voice during dhikr and recitation is objectionable (makrūh), and according to some Hanafites it is forbidden (ḥarām).

The matter of bid'a (innovation) is also discussed by al-Ḥalabī in the final part of the treatise. He divides it into two groups: bid'a sayyi'a (the bad) and bid'a hasana (the good). The latter is further subdivided into three:

a) Fard al-Kifāya: (collective duty) like learning Islamic theology in order to refute the arguments of the heretics.

b) Mustahabb: (desirable) like compiling books and building schools.

c) Mubāh: (indifferent) like variation in one's food, etc.

Finally, the author includes loud recitation and dhikr among bid'a sayyi'a and accuses certain sufis of twisting the meaning of some traditions, deceiving the people and inserting various extraneous elements into religion.



3. Mukhtaṣar Fatāwā-i Tātārkhāniyya

This work<sup>1</sup> is a condensation by Ibrāhīm al-Ḥalabī of the Fatāwā collection known as Fatāwā Tātārkhāniyya.<sup>2</sup> The work is divided into kitābs and faṣls and the fatāwā are classified according to their subjects.

In the introduction al-Ḥalabī gives the names of the sources for the fatāwā, such as al-Ḥawī, al-Hidāya, Jāmi' al-Fatāwā, al-Muḥīt and Jāmi' al-Jawāmi'.

After the introduction under the title of Bāb al-'Ilm, summary information is given about the fatwā and in a separate chapter the required qualifications to give a fatwā are discussed and the views of leading Hanafite jurists such as Abū Ḥanīfa, Abū Yūsuf, Imām Muḥammad are reported on this subject. The work itself begins:

الحمد لله رب العالمين والصلوة والسلام على سيد  
رسوله وخير خلقه سيدنا محمد وعلى آله وصحبه  
التابعين والطاهرين . . . الخ

In the classification of the subjects, classic Hanafite method was followed, thus the work begins with Kitāb al-Ṭahāra and ends with Kitāb al-Farā'id, in 219 ff.

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1. See KZ, I, 268; GAL, II, 571 no. 4, also SII, 643 no. 4 under the title of "al-Fawā'id al-Muntahaba min al-Fatāwi't-Tātārkhāniyya".

2. Süleymaniye, Reşid Efendi, nu:284

4. al-Qiyām 'inda Dhikri Wilādati Rasūli'llāh<sup>1</sup>

This treatise was written in order to correct the common practice of standing during the recitation of the Mawlid-i Sharīf at the point where the narrative describes the birth of the Prophet. The recitation of the Mawlid was widely-spread throughout the Muslim world and was attended by the sultans, grand viziers and other members of the ruling class in the Ottoman Empire; we even find a qānūn about it.<sup>2</sup> Although it is a description of the Prophet's birth and some episodes from his life which was at first recited at the ceremonies held on the Prophet's birthday, its recitation commonly marked several other occasions, and Mawlid ceremonies increased in frequency, especially in Turkey. As Professor Çağatay points out: "The birthday of Muḥammad is not the only time of the year to recite mawlids. When someone survives an accident, or is granted a wish for which he had already made a vow to have a mawlid recited, this ceremony may be held."<sup>3</sup> It is also recited on the fortieth day after someone's death or on the anniversary of the death of national heroes, important battles or national catastrophes.<sup>4</sup>

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1. GAL, II, 571 no. 7 under the title "al-Qawl at-Tamām 'inda.." Süleymaniye, Hacı Mahmud Ef., Ms. No: 4474, 3 folios.

2. 'Uthmanlı Qānūnnāmaları; Collection of Tawqī'i 'Abd al-Raḥmān Pasha, see M.T.M., I, p. 535. The popular version of mawlid recited in Turkey was composed by Sulaymān Chalabī (d. 1422).

3. N. Çağatay, "Mawlid Recitations" (in SI, 1968), p. 127

4. Ibid.

In this ceremony when the chapter relating to the Prophet's birth and his coming to this world is recited, the listeners would stand up to mark their respect for the personage of the Prophet.<sup>1</sup> A group of 'ulamā' approved of this practice, supporting their argument by saying: "This standing up is a reverence (ta'zīm) for the Prophet and whatever is reverent to him should be practised." Al-Ḥalabī does not accept this syllogism (i.e. 1) Reverence for the Prophet is mandatory; 2) standing up is reverence for the Prophet; 3) therefore standing up is mandatory), as he does not accept the first premise, and thus objects to a practice which was -- and, indeed, still is -- common in Turkey. He wrote:

There is no evidence in the Shari'a for this standing up; moreover, the Prophet himself prohibited people to stand up on his arrival, saying, "It is the custom of other nations to greet each other like this."

The author also refutes the view that the Prophet did not allow people to stand up because of his modesty, which was manifested in an analogous situation where the Prophet told his companions not to prefer himself to Moses, even though this preference was permitted by the Shari'a.

Al-Ḥalabī holds that these two cases could not be treated as falling within the same category, since there is nothing about standing up in the Shari'a; moreover, if the injunction against standing were out of modesty, the

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1. See S. Çelebi, Mevlid, ed. F. Timurtaş, p. XII



Companions would have realized this. Seeing that it was a genuine prohibition, rather than an example of his modesty, they did not practise it any more. As an answer to the argument, "this standing up in order to show our respect for the Prophet is a part of our custom, so we practise it", al-Ḥalabī argues that custom cannot overrule a prohibition by the Prophet which is supported by Qur'ānic injunction: " ... and whatsoever the Messenger giveth you, take it. And whatsoever he forbiddeth, abstain from it."<sup>1</sup>

In a summary of his arguments, the author says that showing reverence (ta'zīm) to anybody, apart from God, is forbidden, especially if it includes prostration (sajda), bowing (rukū'), standing up (qiyām) and other acts which fall within this category, that is acts which are normally practised in the course of ritual prayers which constitute worship intended for God alone. If these acts are included in greetings, however, they are classified as ḥarām (forbidden), makrūh taḥrīmī and makrūh tanzīhī<sup>2</sup> respectively.

Although al-Ḥalabī does not discuss whether mawlid ceremonies themselves are innovations or not, and dwells only on this issue, he rejects a commonly practised custom despite the degree of acceptance it had found in the community.

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1. The Qur'ān, 59:7.

2. For an explanation of these two terms see p.199 below.

5. al-Hilyat al-Sharīfa<sup>1</sup>

This treatise provides a description of the Prophet and illustrates his virtues. After the customary praise of God and prayers for the Prophet, the author reminds the reader that it is incumbent on him to know about the Prophet and the special honours bestowed on him by God. He then advises his reader that in this work he has borrowed the material from al-Shifā'<sup>2</sup> and has simplified it to make it easier for him to understand. He adds:

Moreover, he who knows these qualities of the Prophet is safe from Satan, who appears in the image of the Prophet to deceive the people.

At the beginning, after noting the greatness of the Prophet's personality, he gives his physical description: "The Prophet's face used to shine like a full moon on a dark night; he was neither tall nor short." This is followed by the description of his walk, as being "by wide steps and leaning forward", and the <sup>remark</sup> that he used to look towards the ground more than he did towards the sky.

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1. Süleymaniye, lâleli, Ms. No: 1543/5, Pertev Paşa Ms.no.603, 11,folios. See also GAL, II, 571 no. 8.

2. Al-Shifā' fī Ta'rīf Huqūq al-Mustafā, by Ḥāfiz b. al-Fadl 'Iyād b. Mūsā, d. 544/1149. See GAL, I, 455. SI, 630, and KZ, II, 1052.

As the second part of the treatise, the manners of the Prophet in public, and his relationship with his people are given:

He always greeted people by saying "al-salām 'alaykum" whenever he met them. He did not speak without necessity and his sentences were short, precise and full of meaning. He used to beat his left hand's palm with his right hand's first finger while he was talking. He appreciated every favour done to him and he did not despise anything.

Our author then adds:

He used to defend people's rights and was never angry for his own sake. He used to devote most of his time to people and listened to their problems. He was very patient and understanding; he never turned down any request for help.

Al-Ḥalabī points out his affection for the people and says that he was like a father to them. He adds: "He used to exert every possible effort for the solution of their problems." The Prophet's temperament is also mentioned in the treatise and it is said to be moderate in every aspect. He did not appreciate receiving special treatment from people and asked them not to allocate a specific place for himself in public gatherings.



Finally, the author quotes a tradition<sup>1</sup> related by 'Alī, in which he reports:

I asked the Prophet of his sunna and he answered, "Divine experience (ma'rifa) is my capital, reason is the basis of my religion, love is my principle, it is desire which takes me to my goal, remembrance of God is my intimate friend, confidence (al-thiqa) is my treasure, sorrow is my company, knowledge is my weapon, patience is my support, contentment is my booty, poverty is my pride, asceticism (zuhd) is my profession, certitude is my power, sincerity is my intercessor, obedience is my beloved friend, jihād is my character; my spiritual contentment is in my prayers, my benefit is in remembrance of God, my afflictions are for the sake of my people and my longing is for God."

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1. It does not exist in canonical collections.

6. Risāla fī Haqq Abaway Nabiyyinā 'alayh al-Salām

In this treatise<sup>1</sup> al-Ḥalabī discusses the question of whether the ahl al-fatra<sup>2</sup> should be regarded as believers or not. In the development of his arguments, the parents of the Prophet become the subject matter and the author reports two sayings attributed to the Prophet. The text of the first is: "Nobody from my family goes to the fire" and the second, a "weak tradition", reports that the Prophet went to the grave of his mother and asked God to grant her life. His wish was granted and his mother came to life and professed her belief in his religion and Prophethood. Al-Ḥalabī also quotes the Qur'ānic verse 17:16 : "We never punish until We have sent a messenger", which is used as supporting evidence by those who claim that ahl al-fatra were excused and not punished.

Al-Ḥalabī disagrees with them and holds:

... this is a matter of dispute concerning the main principles of belief and theology; in these important disputes we should believe that our madhhab is right and the madhhab of our opponents is null and void. Our madhhab is Māturīdī, and our belief is that the ahl al-fatra are non-believers. It is incumbent

<sup>4</sup> folios.

1. Süleymaniye, Yazma Bağışlar, No.: 2061/2/GAL, II, 571, no.9.

2. Those who died before the mission of the Prophet, in the interval between prophets.

upon Abū Ḥanīfa and those who follow him to teach the facts to those who are ignorant of them.

Al-Ḥalabī also warns his reader that the position of the parents of the Prophet should not be discussed in the presence of common people and beginners, since, as he puts it, "they cannot balance their reasons."

In this treatise al-Ḥalabī most probably was participating in a contemporary debate on this matter. ( These arguments were to continue even in the following century.<sup>1</sup>) The Ash'arite theologians and Shafi'ite lawyers claimed that the ahl al-fatra were excused since they were not warned. Al-Ḥalabī, naturally, joined forces with the Māturīdites and Hanafites who claimed that they were in torment for it was possible for them to observe and deduce the unity of the Creator, but they neglected to do so.<sup>2</sup>

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1. Ḥājji Khalīfa, Mīzān al-Ḥaqq, Eng. Trans. G.L. Lewis, The Balance of Truth (London, 1957) p. 67.

2. Ibid.



7. Nazm Sīrat al-Nabiyy wa Sharhuhu

This is a work on the life of the Prophet, by al-Ḥalabī, who firstly versified the life of the Prophet in 63 bayts, 63 being the number of years in the Prophet's life. The author then wrote a commentary on his qasīda. It begins:

نحمدك اللهم على ما أوليت من فضائل  
النعم و نشكرك على ما أوليت  
من فواضل الكرم . . . الخ

An important aspect of this work is that it demonstrates al-Ḥalabī's familiarity with poetry and his ability to write it. There is no information as to the date of composition.<sup>1</sup>

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1. The copy used here is of 17 ff;<sup>it was</sup> copied by 'Uthmān b. Muṣṭafā in 1241/1825, and it is in Cairo National Museum, No: B, 22242. See GAL, SIII, 1304 no. 11.

8. Tasfīh al-Ghabī fī Tanzīh Ibn 'Arabī<sup>1</sup>

This treatise is a supplement to <sup>the</sup> Ni'mat al-Dharī'a of al-Ḥalabī, in detailed answer to the defence of Ibn 'Arabī contained in the Tanbīh al-Ghabī bi Tanzīh Ibn 'Arabī of Jalāl al-Dīn al-Suyūṭī (d. 911/1505). The work begins:

الحمد لله الذي بنعمته تتم الصالحات والصلوة والسلام  
على حبيبنا محمد . . . وبعد . . . نيلت ما علقته  
على كتاب الفصوص بما ذكرته أجوبة لفتوى السيوطي  
المسماة تنبيه الغبي . . . الخ

In this work al-Ḥalabī gives the opinions of other critics of Ibn 'Arabī in addition to his views. The work is of 16 ff. and <sup>was</sup> completed in Ṣafar 945/June 1538, just a month after the composition of the Ni'mat al-Dharī'a. (See the colophon of the manuscript.)

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1. Süleymaniye, Reşid Efendī, Ms. No: 1437/13,

See also GAL, II, 571 no. 13.

9. Risāla fi'l-Mash ('ala 'l-khuffayn)<sup>1</sup>

This work was composed in response to Shaykh al-Islām ʿIwī-zāda Muḥyī al-Dīn Muḥammad Efendī's risāla which stated that the practice of the mash on leather socks was not permissible.<sup>2</sup> This statement by the most prominent religious authority, i.e. the Shaykh al-Islām, caused great anxiety in society since it overruled a commonly applied and till then undisputed practice in Hanafite law.<sup>3</sup> Thus the sultan of the period Sulaymān I asked the 'ulamā' whether "ʿIwī-oghlu" was on the path of truth or not.<sup>4</sup> (see p.104 of this work )

Several scholars responded to this request by composing risālas on the matter in question. Among them was Muḥyī al-Dīn al-Fanārī who himself was to become Shaykh al-Islām (1543-1545) and Qadrī Efendī (who was Qādī 'askar

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1. I have been unable to obtain a copy of this risāla. The only known location is given as "Bol.244.5" (in GAL, SII, 643) which may be a reference to V. Rosen "Remarques sur les mss. or. de la collection Marsigli à Bologne..." but KZ (I,890) and Kawākib (II,28) give enough information as to its content.
  2. See p. 104 of this work.
  3. See al-Ḥalabī, Multaqa 'l-Abḥur, p. 7 ; Ghunyāt al-Mutamallī, p.104 ; al-Marghīnānī, al-Hidāya, I, 28 etc.
  4. See Yurdaydīn, op. cit., p. 114.



of Anatolia at the time of the trial of Mollā Qābid (see p.96-99), both of whom defended the practice of mash. KZ (loc.cit.) states that Kamāl pasha-zāda ( d.1534 ) also wrote a risāla in defence of the permissibility of mash. This shows that the controversy must have existed during his time too, and it was not a fresh issue during the period of Çiwi-zāda as Shaykh al-Islām. However, one would assume that the latter's ruling in his capacity as Shaykh al-Islām must have been the major fact which caused great concern among the ulama as well as at governmental level.

Al-Ḥalabī in this particular issue did not agree with his colleague Çiwi-zāda and in his risala defended the practice of mash and its legality. Indeed he stated his view that mash was permissible in the Multaqā and in the Ghunyat al-Mutamallī also. Although, as already mentioned, (see p.103) al-Ḥalabī agreed with Çiwi-zāda on many issues, to have supported him on this point would have raised question marks as to the reliability of the Multaqā as a "matn-i matīn" (solid text) and the consistency of al-Ḥalabī as a scholar.

10. Risāla fī Tawjīh al-Tashbīh: This work is mentioned by Brockelmann (GAL, SIII, 1304). KZ makes no mention of it. Despite my continuous efforts I have not been able to obtain a copy of it. Its location is given as "Alex. Fun. 64 ".

C. AL-ḤALABĪ'S WORKS NOT MENTIONED BY BROCKELMANN

1. Risālat al-Ḥimmaṣa<sup>1</sup>

This risāla<sup>2</sup> was mainly derived from the work of one Fiqhī Efendī al-ʿAynī and certain other works. Al-Ḥalabī says:

There are three cases presented by a person who has a wound to which medicament (poultice, ḥimmaṣa) has been applied:

- 1) Tawṣīʿ
- 2) Tawassuṭ
- 3) Tadyīq

If matter is being discharged spontaneously from the wound itself, this invalidates the

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1. Al-Khamasu ( الخمس ), according to L'A (VIII, 297), means a wound, but al-Ḥimmaṣa ( الحمص ) as given in Lane's Arabic-English Lexicon (1/2, p. 644) means " ... a certain grain used to clear away spots in the skin, which beautifies the complexion and is beneficial for hot tumours; ... and its meal is used for the fluid of foul ulcers and the infusion thereof, for toothache, etc." In this risāla it is this latter word which is used, rather than the first one, in the sense of a poultice made of chick-peas, put on the wound for the purpose of curing.
  2. İstanbul, Süleymaniye, Osman Huldî Öztürkler, Nu: 27/35, ff. 226-227, and Bağdatlı Vehbî Ef. Nu: 2070/4, ff. 77-78.

ablution (wudū') and the 'ulamā' are agreed on this point. But if it would come out only as a result of pressing or squeezing the wound or by putting some poultice on it, then, according to some 'ulamā', it does not invalidate the ablution, this being the first case. (Some, however, have objected to this, holding that it does invalidate the ablution.) Any matter which had come out of the wound, unless it be in a large quantity on his clothes or body or the place on which he prays, does not prevent him from doing so.

Al-Ḥalabī, as an example of the second case, takes the situation of the sāhib al-'udhr<sup>1</sup> and gives the following judgement:

If the matter is flowing out continuously from the wound and lasts for the period of a prayer time (e.g. from 'aṣr to maghrib), that person is considered as sāhib al-'udhr, in which case he must make fresh ablution for every prayer. If he is able to stop the flow for a time, in which he could make ablution and perform the prayer, he should

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1. Literally means a person who has an excuse, but in fiqh it is a person who cannot help a continuous defect which invalidates his ablution, like bleeding which lasts over a period of a prayer time.



do so, taking the poultice off [before the prayer] and replacing it afterwards.

The third case is the strictest and most difficult in practice, dealing with the continuous flow of matter from the wound, which is difficult to stop. The person is expected to staunch it in any way possible for the time of ablution and prayer. Al-Ḥalabī points out that the first case is the easiest one to practise and the second one follows it. After these three cases he presents an interesting view:

There is also the fourth possibility for this person who has the wound, which is to follow the opinion of Imām al-Shāfi'ī.<sup>1</sup> However, this must be adhered to in every detail concerning the ablution and the prayer in order not to mix the views of two different rites.

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1. According to al-Shāfi'ī, flowing of blood from the wound does not invalidate the ablution.

2. Risāla fi'l- Radd 'alā man I'taqada Islāma Āzār<sup>1</sup>

This treatise was written to refute the arguments of certain people, presumably some Shi'ite scholars, who said that among the ancestors of the Prophet, from the time of Adam, there was no infidel (kāfir). They added that whoever claims the contrary deserves execution. They also stated that the father and other ancestors of the Prophet are to be ranked higher than the caliphs Abū Bakr and 'Umar.

Al-Ḥalabī, in the first part of his refutation, takes up the matter of Āzār, the father of the Prophet Abraham, and looks to the Qur'ān to find the answer to whether he was an infidel or not. He quotes several verses from various chapters of the Qur'ān, among which are:

... and Abraham prayed for his father's forgiveness only because of a promise he had made to him. But when it became clear to him that he was an enemy to God he dissociated himself from him, for Abraham was most tender hearted, forbearing.<sup>2</sup>

Lo! Abraham said to his father Āzār, "Takest thou idols for gods? for I see thee and thy people in manifest error."<sup>3</sup>

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1. Süleymaniye, Es'ad Efendī, Nu: 245/6.

2. The Qur'ān, 9:114.

3. Ibid., 6:74.

O my father, serve not Satan, for Satan is a rebel against (God) the most gracious.

O my father I fear lest a penalty afflict thee from (God) the most gracious so that thou become to Satan a friend.<sup>1</sup>

O my Lord, forgive my father for that he is among those astray.<sup>2</sup>

Al-Halabī, basing his judgement on these verses, says that the infidelity of Āzār is explicitly stated in the Qur'ān and as further support for his argument he gives a tradition which says:

On the day of resurrection, Abraham will meet his father Āzār whose face will be dark and covered with dust. Abraham will say to him, "Didn't I tell you not to disobey me?" His father will reply, "Today I will not disobey you." Abraham will say: "O Lord! You promised not to disgrace me on the day of resurrection, and what could be more disgraceful to me than cursing and dishonouring my father?" Then Allah will say to him, "I have forbidden Paradise to the infidels." And He will add: "O Abraham! Look at what is underneath your feet!" He will look and there he will see a

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1. The Qur'ān, 19:44-45.

2. Ibid., 26:86.



blood-stained dhabh (sacrificial animal) which will be caught by the legs and thrown in the fire.<sup>1</sup>

Al-Ḥalabī concludes the first part of his discussion saying that apart from the above-mentioned Qur'ānic verses and tradition there is also consensus (ijmā') stating the infidelity of Āzār.

As a second point, the position of Abū Ṭālib<sup>2</sup>, the Prophet's uncle, is discussed. The author holds the view that he died as an infidel like Āzār, and this time he takes a tradition as a ground for his discussion. According to this tradition, narrated by al-Muṣayyab:

When Abū Ṭālib was on his death-bed the Prophet went to him while Abū Jahl was sitting beside him. The Prophet said, "O my uncle! Say, 'None has the right to be worshipped except Allah', and with this declaration I will defend your case before Allah." Abū Jahl and 'Abdullāh b. Umayya said: "O Abū Ṭālib! Will you leave the religion of 'Abd al-Muṭṭalib?" They kept on saying this to him so that the

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1. Saḥīḥ al-Bukhārī, IV, 365, Hadīth Number 569.

2. This is one of the controversial matters between the Sunnites and Shī'ites. The latter group do not accept that Abū Ṭālib died as an infidel. For details of their supporting views see Najm al-Dīn al-'Askarī, Abū Ṭālib, Ḥamī al-Rasūl wa Nāṣiruhu (Najaf, 1380 A.H.).

last statement he said while still alive was:

"I am of the religion of 'Abd al-Muṭṭalib."

Then the Prophet said, "I will keep on asking for Allāh's forgiveness for you unless I am forbidden to do so"; then the following verse was revealed<sup>1</sup>:

It is not fitting for the Prophet and the believers to ask Allāh's forgiveness for the pagans, even if they were their close relatives, after it has become clear to them that they are the dwellers of the fire.<sup>2</sup>

As for the Prophet's grandfather, 'Abd al-Muṭṭalib, and his father 'Abdallāh, al-Ḥalabī quotes Ibn al-Jawzī<sup>3</sup>:

The Muslims do not differ in the view that 'Abd al-Muṭṭalib died as an infidel, so did 'Abdallāh and the consensus of the ahl al-sunna wa'l-jamā'a is known about this matter.

In the last part of the treatise, al-Ḥalabī gives answers to some possible questions. For example, "How can we justify the situation that some ancestors of the Prophet were infidels, since an infidel is ( خبيث ) dirty and wicked?" Al-Ḥalabī says: "This defect is in belief, and does not apply to the body or to the lineage. Moreover,

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1. Sahīh al-Bukhārī, V, 141.

2. The Qur'ān, 9:113.

3. Abu 'l-Faraj 'Abd al-Rahmān b. al-Jawzī, see GAL, GI, 500.

there is cons<sup>n</sup>ensus about the fact that the line of the Prophet was pure (tāhir)."

To conclude the treatise, the author puts forward the interesting idea that it was probably more advantageous for the Prophet that some of his ancestors held different beliefs. Had all the Prophet's ancestors been believers, then he might have been charged with attempting to support their religion and little attention would have been given to his mission. Al-Halabī further suggests that when he (the Prophet) accused people of following their ancestors' religion blindly, they could have used the same argument against himself.

Finally, he says that when the Prophet called people to the new religion, people thought that there must have been some merit in it, otherwise he would not leave that of his fathers.



3. Kitāb Fuṣūl al-Arba'īn

Belonging to the genre of arba'īn literature,<sup>1</sup> this work contains a selection of traditions divided into forty chapters, each concerned with a different aspect of Islamic ritual. Although it is attributed to al-Ḥalabī, there is no mention of his name in the body of the work itself.

The first chapter of the work gives a number of traditions about the virtues of ritual purification (ablution). In the following chapters traditions on the virtues of daily prayers, Friday prayers, funeral prayers, fasting, Qur'ān, etc., are given.

The copy used here consists of 168 ff. and is kept in the Reşid Efendī collection (No: 241) in Istanbul, (Süleymaniye library.).

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1. For more information about arba'īn literature see M.S.K. Alawī, al-Lārī's Commentary on Arba'īn of an-Nawawī (Ph.D. Thesis, Edinburgh University, 1979), vol. I, pp. 5-26.

Apart from these works al-Ḥalabī also wrote two other risālas of less importance; which contain his views on certain matters appertaining to fiqh. Among These works are:

- 1) A Ta'liqāt to the Hidāya, a work of a single folio without date of composition.<sup>1</sup>
- 2) A Ta'liqāt to al-Iṣlāḥ wa'l-Īdāḥ, composed by his contemporary Kamāl Pasha-zāda. This work was completed in 955/1548.<sup>2</sup>

It should be borne in mind, however, that other risālas of al-Ḥalabī may still be discovered through further investigations, but they are bound to be of less importance since the important ones are mentioned in sources contemporary to the author and also in modern sources.

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1. Süleymaniye, Dügümlü Baba, Ms. No: 446/5.

2. Süleymaniye, Dügümlü Baba, Ms. No: 446/2.

D. WORKS WRONGLY ATTRIBUTED TO AL-ḤALABĪ BY BROCKELMANN  
AND OTHERS.

Durrat al-Muwahhidīn wa-Dirrat al-Mulhidīn<sup>1</sup>

This work was written by a certain Ibrāhīm b. Shaykh al-Islām Mūsā al-Ḥalabī and it was presented to Sultan Bāyazīd II. It begins

بسم الله الرحمن الرحيم اياك نعبد و اياك نستعين على  
تمزيق الزنديق اللعين الله احد وأعوذ به  
ممن ألد وأسأله الاعانة على من الحده في غاية  
الابانة وفساده كالشمس ليس فيه لبس . . . الخ

In the introduction the author gives his reasons for composing this work, and says that he wanted to illustrate the virtues of the Ottoman dynasty and also to explain the differences between the kāfir, the murtadd and the zindīq. As has been stated previously (see p. 82 ), this work is directed against <sup>the</sup> Shiites and Shāh Ismā'īl, who is often referred to as "the zindīq of Ardabīl", "the devil of Ardabīl" etc. This work is erroneously attributed to our author Ibrāhīm b. Muḥammad al-Ḥalabī by Brockelmann (GAL, II, 571 no. 6 and SII, 643, no. 5) under the incorrect title of Durrat al-Muwahhidīn waraddat al-mulhidīn. However the clearly written text (see title page and f. 14a) leaves no doubt that the word in question is ( درة ) not ( ردة ).

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1. Ms. Köprülü Library, no: 720.



On the other hand Brockelmann confuses both Ḥalabī Ṣaghīr and Ḥalabī Kabīr with the Tuhfat al-Akhyār of Ibrāhīm b. Muṣṭafā al-Ḥalabī (d. 1190/1776) and attributes them both to the latter author (GAL, SII, 428). Clearly he is not aware that these works are identical with the two versions of Ghunyat al-Mutamallī, which he elsewhere attributes correctly to the author who is subject of the present study (GAL, II, 571).

In the catalogues of the Süleymaniye Library in Istanbul several works are attributed to our author in so far as they are catalogued under his name. For example the Tuhfat al-Akhyār 'ala 'l-Durr al-Mukhtār of the above-mentioned Ibrāhīm b. Muṣṭafā al-Ḥalabī is classified under our author al-Ḥalabī's name.<sup>1</sup> Another work, entitled Ḥall Mu'ammā Bahā' al-Dīn al-'Āmilī is again wrongly attributed to our author.<sup>2</sup> Al-'Āmilī<sup>3</sup>, himself died in 1030/1621, long after al-Ḥalabī's time, and thus it is hardly likely that al-Ḥalabī could comment on al-'Āmilī or his works. Besides these, some works on mathematics are also classified under our author's name,<sup>4</sup> most probably as

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1. See Süleymaniye, Halet Efendī, No: 148.
  2. See Süleymaniye, Şehit Ali Paşa, No: 2283/1.
  3. See GAL, SII, 595.
  4. For example Sharḥ al-Hāwī, Pertevniyal no: 750, Hāshiya 'alā Daqā'iq al-Ḥaqā'iq... Hamidiye no: 873/2 etc.

a result of confusion caused by the same laqabs. It is possible that works of this kind may have been produced by Ghars al-Dīn Ibrāhīm b. Aḥmad al-Ḥalabī, who died in Istanbul in 971/1563. This author, like our al-Ḥalabī, was born in Aleppo, educated in Damascus and Cairo and then came to Istanbul.<sup>1</sup>

A work of a certain Ibrāhīm al-Ḥalabī which was composed in 814/1411<sup>2</sup> and entitled Risāla fī Mas'alat al-Jabl min Awā'il Sharḥ Qādī-zāda 'alā Mulakhkhas al-Jaghminī is also classified among the works of Ibrāhīm b. Muḥammad al-Ḥalabī; there is no reference to the date of composition of the work.<sup>3</sup> Although the catalogue of the Süleymaniye Library is not a published work, it remains one of the fundamental resources for any investigation into the works of al-Ḥalabī, and for this reason we think it is important to caution the researcher about this possible source of confusion. It seems that the cataloguers tended to assume that any work written by any Ibrāhīm al-Ḥalabī was by the famous al-Ḥalabī, author of the Multaqā.

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1. See GAL, II, 447.

2. See GAL, II, 157.

3. Süleymaniye, Serez, no: 3873/6 (with a slightly different title.)

## CHAPTER IV

### THE SOURCES OF THE MULTAQĀ



As will be mentioned in the chapter on the Multaqā, al-Ḥalabī used four main sources for the compilation of the Multaqā. These sources namely were: the Mukhtaṣar of al-Qudūrī, the Mukhtār of al-Mawṣilī, the Kanz of al-Nasafī and the Wiqāya of al-Maḥbūbī. Two other sources, the Hidāya of al-Marghīnānī and the Majma' of Ibn al-Sā'ātī were also consulted occasionally by the author. Four of these six sources are known as al-mutūn al-arba'a, "the four texts" in the Hanafite law.

Although these sources show differences in style, detail of information, the number of cases (masā'il) they present, in the method of presentation and in the extent of reference to other rites etc., it is almost impossible to draw sharp lines separating them from each other, since in most cases they are based on the same sources or some of them were used as sources for others. For example, one of the two sources of Bidāyat al-Mubtadī<sup>1</sup> was al-Qudūrī's Mukhtaṣar. Likewise the Hidāya was a basic source for the Wiqāya, the Majma', was partly based on the Mukhtaṣar of al-Qudūrī etc.

The popularity of these works can be judged by the number of commentaries they have attracted. The names of the places mentioned in the biographies of the authors may be helpful to give a rough idea about the geographical distribution of these works.

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1. On this work by himself, al-Marghīnānī wrote the famous commentary known as the Hidāya. See p.184 below.

# I. al-Mukhtaṣar

Al-Mukhtaṣar is the work of Aḥmad b. Muḥammad b. Aḥmad b. Ja'far b. Ḥamdān Abu 'l-Ḥusayn b. Abī Bakr, known as al-Qudūrī<sup>1</sup>, who was born in Baghdād in 362/972. He studied fiqh under Muḥammad b. Yahyā al-Jurjānī, and hadīth under Muḥammad b. 'Alī Suwayd al-Mu'addib and 'Abdallāh b. Muḥammad al-Jawshānī.<sup>2</sup> After completing his education he began teaching. Among his students were al-Khaṭīb al-Baghdādī<sup>3</sup> and Abū 'Abdallāh al-Dāmghānī; the former was to become a famous historian, and the latter the chief qādī in Baghdād. Al-Khaṭīb describes him as being very veracious but relating relatively few hadīth; he also reports the continuous discussions between al-Qudūrī and his Shafiite contemporary Abū Ḥāmid al-Isfarā'inī.<sup>4</sup>

The author of al-Jawāhir praises al-Qudūrī's knowledge and states:

He was among those who were distinguished in fiqh by their mental acuteness. The leadership of the Hanafites passed to him and he was highly respected among them.<sup>5</sup>

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1. GAL, SI, 175; KZ, II, 1631.

2. Jawāhir, I, 93.

3. IA, VI, 952; Wafayāt, I, 37.

4. Tāj, p. 7.

5. Jawāhir, loc. cit.



Al-Qudūrī is credited for his eloquent style in writing and he is also held to have been very fluent in his speeches. It is also claimed that he devoted most of his time to the recitation of the Qur'ān.<sup>1</sup> He is placed in the class of aṣḥāb al-tamyīz in the classification of the fuqahā' by Ibn Kamāl.<sup>2</sup>

Al-Qudūrī died in Baghdād, his birth place, in 428/1037 and his funeral was attended by his colleagues, local people and by his students, among whom al-Khaṭīb and 'Abd al-Jabbār al-Sam'ānī (d. 489/1096) are particularly mentioned. He is buried in a tomb next to that of the well-known Hanafite scholar Abū Bakr al-Khwārizmī (d. 393/1002).<sup>3</sup>

In addition to al-Mukhtaṣar he composed al-Tajrīd, which is a study of disputed matters between the Hanafites and the Shafiites. He also studied the conflicts within the Hanafite rite, between Abū Ḥanīfa and other leading jurists of his time; this work is entitled al-Taqrīb.<sup>4</sup> His chief work, al-Mukhtaṣar, is one of the earliest and certainly most popular concise expositions of the Hanafite fiqh. As a text-book of this rite it comes historically after al-Aṣl of al-Shaybānī (d. 189/804), al-Mukhtaṣar of al-Ṭahāwī (d. 321/933) and Khizānat al-Fiqh of Abū Layth

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1. Jawāhir, loc. cit.

2. Savvas Pacha, op. cit., II, 31.

3. Jawāhir, loc. cit.

4. Ibid., same page.



al-Samarqandī (d. 375/983), but because of its method of classification it is considered as ranking above them. Ya'akov Meron regards al-Qudūrī as the author of the first of the works belonging to the classical period and writes:

His terminology is so improved and his method so advanced that there is no hesitation in placing him in the new classical period.<sup>1</sup>

He also quotes Chafik Chehata stating:

... already the first scientific investigation into Ḥanafī law and Muslim law generally, indicates Qudūrī's superiority in the arrangement of his legal data.<sup>2</sup>

In KZ (II, 1631), it is stated that the Hanafites used to seek blessing of God on the days of plague by reading it and states:

Whoever memorizes it (al-Mukhtaṣar) becomes safe from poverty, and it is even said that if a person studies it under a pious teacher and invokes God's blessing upon him on the completion of his studies, he will acquire

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1. Ya'akov Meron, "The Development of Legal Thought in Ḥanafī Texts", in Studia Islamica, ( XXX, 1970 ) , p. 78.
  2. Chafik Chehata, Essai d'une Théorie Générale de l'Obligation en Droit Musulman (Paris, 1969), p. 113.

as many dirhams as there are legal determinations (masā'il) in the book, and these are said to be around 12,000.

Al-Mukhtasar is one of the earliest texts to be used as a source by the later Hanafite jurists. Several commentaries and supercommentaries were written on al-Qudūrī's work; among them the following should be mentioned:

- 1) Sharḥ al-Mukhtasar: This is one of the earliest commentaries, written by Aḥmad b. Muḥammad, known as Bābī Naṣr al-Aqṭa' (d. 474/1081).
- 2) al-Mujtabā: A three-volume commentary by Najm al-Dīn Mukhtār b. Maḥmūd al-Zāhidī (d. 658/1260).
- 3) al-Sirāj al-Wahhāj: A commentary by Abū Bakr b. 'Alī al-Ḥaddādī, who died in 880/1475.<sup>1</sup> This work, later, was abridged by the same author and entitled Jawharat al-Nayyira. There is another abridged form of the work by Aḥmad b. Muḥammad b. Iqbāl, entitled al-Baḥr al-Zākhir.
- 4) al-Lubāb: This work was composed by Jamāl al-Dīn Ṣa'd al-Muṭahhar al-Yazdī, who died in 591/1195.
- 5) Multamis al-Ikhwān: A commentary by Abu 'l-Ma'ālī 'Abd al-Rabb b. Maṣṣūr al-Ghaznawī, who died about 500/1106.
- 6) al-Kifāya: A commentary by Ismā'il b. Ḥusayn al-Bayḥāqī whose date of death is not mentioned in the sources.

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1. This date is given by GAL (I, 175), but KZ (II, 1632), on the other hand, gives it as 800/1397.



- 7) al-Bayān: The author of this work is Muḥammad b. Rasūl al-Mūqānī died in 664/1265.
- 8) al-Taqrīr: A commentary, composed by Maḥmūd b. Aḥmad al-Qūnawī, who died in 770/1368.
- 9) al-Nūrī fī Sharḥ al-Qudūrī: A commentary by Muḥammad b. Ibrāhīm al-Rāzī, died in 610/1213.
- 10) Zād al-Fuqahā': This work was written by Muḥammad b. Aḥmad al-Istījābī, whose date of death is unknown.
- 11) al-Yanābī' fī Ma'rifat al-Uṣūl wa'l-Tafārī': A commentary by Rashīd al-Dīn Abū 'Abdallāh Maḥmūd b. Ramaḍān (d. 723/1323).
- 12) Khulāṣat al-Dalā'il fī Tanqīḥ al-Masā'il: The author of this work is Ḥusām al-Dīn 'Alī b. Aḥmad al-Makkī al-Rāzī, died in 598/1201. There are three super-commentaries on this work.
- 13) al-Turuq wa'l-Wasā'il: This work is a study of the traditions found in al-Mukhtaṣar, the author being 'Abd al-Qādir b. Abi 'l-Wafā' al-Qurayshī, died in 775/1373.
- 14) Jāmi' al-Mudmarāt wa'l-Mushkilāt: A commentary by Yūsuf b. 'Umar b. Yūsuf (d. 832/1428, according to KZ but GAL, GI, 175, gives it as 800/1397.)
- 15) al-Tarjīḥ wa'l-Tashīḥ 'ala 'l-Qudūrī: The author of this work is Qāsim b. Qutlūbughā (d. 879/1474).
- 16) al-Fawā'id al-Badriyya: A commentary by Ḥamīd al-Dīn b. 'Alī al-Bukhārī, who died in 667/1298.
- 17) al-Shihāb fī Tawḍīḥ al-Kitāb: This is one of the recent works on al-Mukhtaṣar by Muṣṭafā al-Marāghī and 'Abdallāh Ḥamza and printed in Cairo in 1952.



18) Sharh al-Qudūrī: A Turkish translation and commentary by Fahmī Pāshā (d. 1320/1902), it was printed in Turkey, in 1329/1911. Besides this work, al-Mukhtasar was translated by various scholars into Turkish, among whom 'Alī Ḥaydar Efendī (d. 1333/1914) and Ismā'īl Mufīd Efendī (d. 1217/1802) should be mentioned.

In addition to the above mentioned commentaries, there are some others which are of less importance, to be found in various libraries, especially in Turkey, Egypt and India. One would also expect that there may well be other works in private collections awaiting discovery.

Al-Mukhtasar was also noted in the West, and was partly translated into German by G. Helmsdörfer in 1832, and the text of the chapter entitled Kitāb al-Siyar was published with a Latin translation and notes by Rosenmüller.<sup>1</sup> Another partial translation of it, this time into French, was made by G.H. Bousquet and L. Bercher.<sup>2</sup>

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1. See Analecta Arabica (Leipzig, 1825-26).

2. This work is entitled Le Statut Personnel en Droit Musulman Hanafite (Paris, 1952).

## II. al-Mukhtār li'l-Fatwā

Al-Mukhtār is the work of 'Abdallāh b. Maḥmūd b. Mawdūd b. Maḥmūd Abu 'l-Faḍl Majd al-Dīn al-Mawṣilī (or Mūṣilī) al-Ḥanafī<sup>1</sup>, who was born in Mosul in 599/1202, and received his first instruction from his father<sup>2</sup> and also studied under Abū Ḥafṣ 'Umar b. Ṭabarzad.<sup>3</sup> He then went to Damascus to complete his studies and there took lessons mainly from Jamāl al-Dīn al-Ḥuṣayrī, one of the most renowned teachers of that period. Before long he became an authority on Islamic sciences especially on furū' and usūl in which he was said to be best scholar of his age.<sup>4</sup> It is reported that his knowledge of ḥadīth and tafsīr, in addition to that of fiqh, was so profound and his memory so retentive that he did not usually need to refer to the text-books in order to give legal decisions. After completing his studies in Damascus, he held the office of qādī in Kufa and then went to Baghdad where he taught in the place where Abū Ḥanīfa used to teach. His vast knowledge ensured that his decisions were later to be accepted as the most suitable and correct from many alternatives formulated by earlier scholars on various problems. He is therefore placed in the category of al-muqallidūn, due to his ability to distinguish the qawī from ḍa'īf and rājih from marjūh.<sup>5</sup>

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1. See GAL, I, 382; SI, 657 and KZ, II, 1622.

2. al-Ikhtiyār li-Ta'līl al-Mukhtār (Introduction), I, 4

3. Jawāhir al-Muḍiyya, I, 291.

4. al-Ikhtiyār, loc. cit.

5. Ibid., same page.



Al-Mawṣilī continued teaching and giving legal decisions until his death in 683/1284.

Al-Mukhtār is his major work and was composed in the early years of his career. Later, he wrote a commentary on it, which he named al-Ikhtiyār li-Ta'ālil al-Mukhtār.<sup>1</sup> He wrote another work which is based on the Mukhtaṣar of al-Qudūrī.<sup>2</sup> A further work, entitled Sharḥ Jāmi' al-Kabīr li'l-Shaybānī is also attributed to the author<sup>3</sup> and the Kitāb al-Fawā'id is attributed to him by GAL (GI, 382).

Al-Mukhtār is a well-known and widely used Hanafite text-book, and it has been rightly placed among "the four texts" (al-mutūn al-arba'a) which have become the basis of Hanafite studies. All of these four texts, namely al-Mukhtār, Majma' al-Bahrayn, Kanz and the Wiqāya are the works of contemporary authors, al-Mawṣilī (d. 683/1284), al-Sā'atī (d. 694/1294), al-Nasafī (d. 710/1310) and Maḥmūd b. Ṣadr al-Sharī'a (d. 712/1312) respectively.

After its composition al-Mukhtār spread throughout the community of Islamic scholars of that period and it was memorized by many students of fiqh.<sup>4</sup> It is marked by a very concise style, and yet encompasses most of the details of fiqh.

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1. Edited by the late Professor Maḥmūd Abū Daqīqa, along with the text of al-Mukhtār and printed in two volumes, consisting of five parts (Cairo, 1951).

2. Tāj al-Tarājim, p. 31.

3. Mu'jam al-Mu'allifīn, ('U.R. Kaḥḥāla, Dimashq, 1372 AH) VI, 147

4. See the introduction of al-Mukhtār.



Consisting of 35 kitābs further subdivided into bābs and fasls, the work is exclusively devoted to Hanafite law and mainly based on the legal decisions of Abū Ḥanīfa.<sup>1</sup> Occasionally where the views of al-Shāfi'ī diverge from the discussion in the text, the conflict in opinion is indicated by the letter ( ع ) at the end of that particular passage. Also, where Abū Yūsuf, Imām Muḥammad or Imām Zufar hold differing opinions from that of Abū Ḥanīfa these are indicated by the letters ( و ) ( ر ) and ( ج ) respectively. The letters ( م ) together at the end of a passage would indicate, for example, that both Abū Yūsuf and Imām Muḥammad had adopted a position which differed from that presented in the text. These letters were not in the original text, but as the author puts it, were later inserted in response to the request of his students and some readers who wished to be advised in the text, by the use of these symbols, of the existence of differing views of the fuqahā'

Al-Mukhtār attracted many commentaries, but none of these works has achieved the same popularity. The well-known ones are as follows:

1) al-Tahrīr: This is an abridgement by Abu 'l-'Abbās Ahmad b. 'Alī al-Dimashqī, who also wrote a commentary on it which was to remain incomplete, apparently due to his untimely death in 782/1380.

2) Tawjīh al-Mukhtār: This work was composed by Jamāl Abū Ishāq Ibrāhīm al-Mawṣilī, who was one of our author's

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1. Ibid., same place.

pupils. In this work some of the views held by sects such as al-Zāhiriyya and al-Imāmiyya are also given.

3) Sharḥ al-Mukhtār: A commentary by Ibn Abi 'l-Qāsim al-Qarahiṣārī al-Rūmī who died after 820/1417.

4) Al-Īthār li Hall al-Mukhtār<sup>1</sup>: A commentary written by Muḥammad b. Ilyās.

5) Fayḍ al-Ghaffār: Commentary of Muḥammad b. Ibrāhīm b. Aḥmad, known as al-Imām.

6) Sharḥ al-Mukhtār: This is the work of the celebrated Hanafite author Fakhr al-Din 'Uthmān al-Zayla'ī (d. 743/1342).

7) al-Mukhtār: A versification of the work by Tāj al-Dīn Abū 'Abdallāh b. 'Alī al-Bukhārī (d. 799/1396).

8) Sharḥ al-Mukhtār: A commentary by Muḥammad b. Ḥasan b. 'Alī al-Shādhilī (d. 847/1443).

9) Sharḥ al-Mukhtār: This commentary was composed by Ibn Amīr al-Ḥajj Muḥammad b. Muḥammad al-Ḥalabī (d. 879/1474).

10) Sharḥ Fara'id al-Mukhtār: A partial commentary by Zayn al-Dīn Abū Muḥammad 'Abd al-Raḥmān b. Abī Bakr al-'Aynī (d. 893/1487), on the part dealing with the division of inheritance.

11) Sharḥ al-Mukhtār: A commentary by Qāsim b. Quṭlūbūgha, who died in 879/1474. He also made a study of the traditions used in al-Ikhtiyār.

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1. In GAL, I, 382, another al-Īthār of Yūnus al-Qayṣarī is also given.



### III. Kanz al-Daqa'iq

The Kanz is also one of the basic text-books of Hanafite law and takes its place among the Mutūn al-Arba'a. Its author, 'Abdallāh b. Ahmad b. Maḥmūd, known as Ḥāfiẓ al-Dīn Abu 'l-Barakāt was born in Nasaf<sup>1</sup>, and hence is referred to as al-Nasafī. In the sources no mention is made of the date of his birth, but we may presume that it must have taken place sometime before 630/1232 since one of his madrasa teachers, Shams al-A'imma al-Kardarī died in 642/1244, by which time we presume our author was at least twelve years old. He also studied under Ḥamīd al-Dīn al-Darīr (d. 666/1267) and attended the lectures of Badr al-Dīn Khwāharzāda (d. 651/1253).<sup>2</sup>

After completing his studies, he taught in Kirmān, in the madrasa of al-Qutbiyya al-Sultāniyya. In 710/1310, he visited Baghdād and on his return to Ījaj (in Khūzistān) he died and was buried there.<sup>3</sup>

Al-Nasafī is credited with teaching some brilliant students, who later were to become famous scholars of Islamic sciences, among whom we should mention Muẓaffar al-Dīn Ibn al-Sā'atī (d. 694/1294), the author of the Majma' al-Bahrayn, and Ḥusām al-Dīn al-Sighnāqī (d. 714/1314) the famous commentator on the Hidāya.

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1. Nasaf once was one of the prosperous cities in Sogdiana, between Samarqand and the Oxus. The author is not to be confused with Najm al-Dīn 'Umar al-Nasafī (d. 537/1142).

2. IA, IX, 199.

3. Jawāhir, p. 270, gives this date as 701/1301.



Al-Nasafī is also placed in the class of the aṣḥāb al-tamyīz by Ibn Kamāl, in his classification of the jurists.<sup>1</sup> Some other scholars, however, accepted him as a mujtahid fi 'l-madhhab. They also held that he was the last member of this group, as no other jurist who followed him was equipped with the necessary qualifications to attain this rank.<sup>2</sup> He composed a number of original works, and commentaries on various subjects. His chief works, apart from the Kanz, are as follows:

- 1) Kitāb al-Manār fī Usūl al-Fiqh: This work gives a brief account of the foundations of fiqh. It has been published in several editions.
- 2) Kashf al-Asrār: A commentary on the above mentioned work, by the author himself.
- 3) Kitāb al-Wāfī: This work was modelled on the Hidāya. The author intended to write a commentary on this latter work, but postponed the project, preferring to use the work as a basis rather than a text. In 684/1290 he returned to his original idea and produced a commentary on this work which he entitled the Kitāb al-Kāfī.
- 4) al-Mustasfā and al-Manāfī: These are two commentaries on Nāṣir al-Dīn al-Samarqandī's Kitāb al-Nāfī.
- 5) Madārik al-Tanzīl wa'l-Haqā'iq al-Ta'wīl: A commentary on the Qur'ān, which was later published in Cairo (1306/1888) and Bombay (1279/1862).

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1. Savvas Pacha, op. cit., loc. cit.

2. Ö.N. Bilmen, Hukuk-ı İslamiyye ve Istılahat-ı Fıkhiyye Kamusu, I, 460.

- 6) al-Mustasfā: A commentary on Najm al-Dīn al-Nasafī's al-Manzūma.

The Kanz is one of his best known works and it is the synopsis of al-Wāfī. Although it is not so lengthy, it covers the whole sphere of fiqh. In the original work differing views of various scholars are indicated by some letters; i.e., ( ح ) for Abū Ḥanīfa, ( ی ) for Abū Yūsuf, ( م ) for Muḥammad), ( ز ) for Zufar, ( ع ) for Imām Shāfi'ī, ( م ) for Imām Mālik.

Al-Nasafī's work continued to be used as a text-book in the madrasas of Turkey, Syria and at al-Azhar in Cairo up to the nineteenth century. It is also counted among the reliable sources to which the muftīs refer when they are requested to make a legal decision.<sup>1</sup> The popularity of the Kanz is attested in the number of commentaries written on it throughout the centuries. This number is well over twenty, of which the best known are given below:<sup>2</sup>

- 1) Tabyīn al-Ḥaqā'iq: A commentary by Fakhr al-Dīn Abū Muḥammad 'Uthmān b. 'Alī al-Zayla'ī (d. 743/1342). This is a very comprehensive work and it was later abridged by some other scholars.
- 2) Kashf al-Ḥaqā'iq: It is the work of Yūsuf b. Muḥammad al-Rāzī al-Zahrānī (d. 794/1392).
- 3) Ma'din al-Ḥaqā'iq: A commentary by Muḥammad b. Muḥammad b. Ḥasan al-Samarqandī (d. ?).

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1. Ö.N. Bilmen, op. cit., I, 254.

2. For the rest of the commentaries and supercommentaries, see GAL, GII, 196, and KZ, II, 1515.

- 4) al-Bahr al-Rā'iq: A detailed work by Zayn al-'Ābidīn b. Ibrāhīm b. Nujaym al-Miṣrī (d. 970/1562) and later published in Cairo.
- 5) Tabyīn al-Haqā'iq: This commentary was written by Mu'īn al-Dīn Muḥammad b. Ibrāhīm, known as Mullā Miskīn, who died in 907/1502. It was printed in Cairo in several editions.
- 6) Ramz al-Haqā'iq: A commentary by Badr al-Dīn Abū Muḥammad Maḥmūd b. Aḥmad al-'Aynī (d. 855/1451), of which we have many editions published in Egypt and India.
- 7) al-Nahr al-Fā'iq: A concise commentary by Sirāj al-Dīn 'Uthmān b. Nujaym, who died in 1005/1596.

The Kanz was also versified by some scholars, among whom Aḥmad b. 'Alī b. al-Faṣīḥ (d. 755/1354) should be mentioned.



#### IV. Wiqāyat al-Riwāya fī Masā'il al-Hidāya

The Wiqāya is the work of Maḥmūd b. 'Ubaydallāh Ṣadr al-Sharī'a al-Awwal, known as al-Maḥbūbī.<sup>1</sup> The information about his education, posts and life to be found in the biographical sources is very limited. He is said to have written this work for his grandson, the son of his daughter, who later became a well-known scholar and he is referred to as Ṣadr al-Sharī'a al-Thānī. In the introduction to his commentary on the work of his grandfather he says that he studied under him and memorized the Wiqāya, as each part was composed.<sup>2</sup>

Al-Maḥbūbī's deep knowledge of fiqh is praised by later scholars and he is placed in the class of ashāb al-tamyīz by Ibn Kamāl, along with the other authors of "the four texts", and the date of his death is given as 712/1312.<sup>3</sup>

After its composition the Wiqāya achieved an immediate success and became one of the main works of the Hanafite law. Kātib Chalabī acknowledges this fact and writes:

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1. See GAL, GI, 377, and KZ, II, 2020.

2. Sharḥ al-Wiqāya (on the margin of Kashf al-Ḥaqā'iq), p. 2.

3. Savvas Pacha, op. cit., I, 157; II, 31. Agnides gives the date of his death as "around 680/1281" but mentions no source of information. KZ, II, 2033, suggests 672/1273.

Great attention was paid to the Wiqāya and it has been used as a text-book in schools and was memorized by the students.<sup>1</sup>

The work is mainly based on the Hidāya but is rendered shorter by omitting the reasons behind a decision and not offering alternative views. Hence the work is concise and easy to commit to memory. Its popularity can be judged by the number of commentaries and hāshiyas it has attracted. Among these the following works should be mentioned:

1) Sharḥ al-Wiqāya: This is one of the earliest and best known commentaries on the Wiqāya and was written by the author's grandson 'Ubaydallāh b. Mas'ūd, who died in 747/1346. This work has attracted a large number of super-commentaries by later scholars, among whom are:

- a) Yūsuf b. Junayd, known as Akhī Chalabī (d. 905/1499), who was a teacher in Istanbul and whose work is entitled Dhakhīrat al-'Uqbā.
- b) Muḥammad al-Qarabāghī, d. 942/1535.
- c) Tāj al-Dīn Ibrāhīm b. 'Abdallāh, d. 973/1565.
- d) Ṣāliḥ b. Jalāl-zāda, d. 973/1565.
- e) Muḥammad b. Pīr 'Alī Birgiwī, d. 981/1573.
- f) 'Alī b. Muḥammad al-Jurjānī, d. 816/1413.
- g) Badr al-Dīn Aḥmad b. Maḥmūd, d. 988/1580.

2) Tawfīq al-'Ināya: A commentary by Junayd b. al-Shaykh Sandal al-Ḥanafī (d. ?).

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1. KZ, loc. cit.

- 3) al-'Ināya: This is the work of 'Alā'addīn 'Alī b. 'Umar (d. 800/1397) and was written in Iznik, where he used to teach.
- 4) al-Taṭbīq: A commentary by Qāsim b. Sulaymān (d. 970/1562).
- 5) al-Islāh wa'l-Idāh: A commentary by Kamāl Pasha-zāda (d. 940/1533), who dedicated this work to the Turkish Sultan, Qānūnī Sulaymān, having completed it in 928/1522.
- 6) Sharḥ al-Wiqāya: This is the work of 'Abd al-Wahhāb b. Muḥammad al-Nīsābūrī, who died in 872/1467.
- 7) al-Niqāya: An abridgement of the Wiqāya by the above mentioned grandson of the author. This work has also attracted many commentaries.
- 8) Sharḥ Mukhtaṣar al-Wiqāya: A detailed commentary, completed in 935/1528 and ascribed to 'Abd al-'Alī b. Muḥammad al-Bīrjandī, who was also a famous astronomer and mathematician. If this work was produced by him, as it is claimed, his death must be later than 935/1528 and not 932/1525 as is usually given.

The Wiqāya was also translated into Turkish by a certain Qūrd Efendī, and it was also versified into Turkish by Yūsuf b. Dawlat Oghlī al-Bālīkasīrī, who died in 867/1462.



V. al-Hidāya

This is the work of Shaykh al-Islām al-Imām Burhān al-Dīn Abu 'l-Ḥasan 'Alī b. Abū Bakr b. 'Abd al-Jalīl al-Farghānī, al-Marghīnānī<sup>1</sup>, a descendant of the first caliph Abū Bakr. He was born in Marghīnān, in 511/1117<sup>2</sup>, and acquired his education on his travels, his principal teachers being Abu 'l-Ḥafṣ 'Umar al-Nasafī (d. 537/1142), and al-Imām Ṣadr al-Shahīd Ḥusām al-Dīn 'Umar b. 'Abd al-'Azīz (d. 552/1157), the latter being a pupil of al-Sarakhsī. He also studied ḥadīth under Diyā' al-Dīn Abū Muḥammad Sa'īd b. As'ad.<sup>3</sup>

The author performed the pilgrimage to Mecca and Medīna in 544/1149. After completing his studies he surpassed his teachers and his reputation spread throughout the Islamic world through his works. His information covered a vast area of Islamic sciences and his profound knowledge of fiqh, tafsīr and ḥadīth is emphasised in the biographical works. In addition to this fact, he was a poet and a very pious man. Like al-Qudūrī, he is placed in the class of aṣḥāb al-tarjīh.<sup>4</sup> He died in 593/1196, apparently during the siege of Bukhārā by the army of Chingiz Khān<sup>5</sup>

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1. See GAL, I, 376 and SI, 644

2. al-Hidāya, introduction to the edition (Cairo, 1965), I, 3.

3. Ibid., I, 4; Jawāhir, I, 383; EI<sup>2</sup>, III, 279.

4. al-Hidāya, I, 6; Savvas Pacha, op. cit., II, 31.

5. Ö.N. Bilmen, op. cit., I, 355.

Al-Marghīnānī was a prolific author, writing numerous works covering various categories of Islamic studies, among which the Majma' al-Nawāzil, al-Tajnis wa'l-Mazīd, the Kitāb fi 'l-Farā'id, the Kitāb al-Ḥajj should be mentioned. His principal work, Bidāyat al-Mubtadī, is based on al-Qudūrī's Mukhtaṣar and al-Shaybānī's al-Jāmi' al-Ṣaghīr. The author intended to compose a concise yet comprehensive work on the basis of these two sources, and the order of the chapters is based mainly on the order of al-Jāmi'. After the completion of the Bidāya, he began to write a detailed commentary on it, but later abandoned the project after completing the eighth volume, and entitled the work the Kifāyat al-Muntahā.

Al-Hidāya is the author's second commentary on the Bidāya, and compared to the comprehensive nature of his first incomplete commentary, it is much more concise, consisting of a mere four volumes. Its composition began in 573/1177 and lasted for thirteen years. Throughout this period it is claimed that al-Marghīnānī followed the life of an ascetic and fasted during the time of the composition of his work, but kept his fast secret as much as was possible. It is recorded, for example, that when he was served meals, he would give it to one of his students and later the servant collected empty dishes, thinking al-Marghīnānī had eaten the meal himself.<sup>1</sup> Acts of such piety and asceticism are ascribed to many of the

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1. al-Hidāya (Introduction), I,5



great writers, whose works are felt to be imbued by this aura of sanctity.

Al-Hidāya is certainly one of the most celebrated books of Hanafite law and was used as a text-book in the madrasas, and constantly referred to by muftīs. Many of the later scholars expressed their appreciation of it in poems. Kātib Chalabī cites an anonymous bayt which says:

Al-Hidāya, like the Qur'ān,  
Abrogated its predecessors ...<sup>1</sup>

As well as these praises, it also has attracted some criticisms, especially on the question of the traditions used in it. For reasons of economy of style, our author failed to ascribe the traditions he cites by offering the chain of narration. This fact alone has generated much argument concerning their provenance and authenticity. It is not surprising, therefore, that we find some works based on the traditions alone. Among the scholars to produce such works are Muḥyī al-Dīn 'Abd al-Qādir b. Muḥammad, who wrote al-'Ināya bi Ma'rifat Ḥadīth al-Hidāya, and Jamāl al-Dīn b. 'Abdallāh b. Yūsuf al-Zayla'ī, the author of Nasb al-Rāya li Ahādīth al-Hidāya.

In the work, al-Marghīnānī mentions the opinions and arguments of Abū Ḥanīfa, after that those of his disciples, except in those cases where our author agrees with the latter scholars. Some views of al-Shāfi'ī are also given.<sup>2</sup>

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1. KZ, II, 2032.

2. See al-Hidāya, I, pp. 7-9.



A few matters mentioned in the Hidāya raised objections among certain jurists, but the work is held in such reverence that some of the misrepresentations of these views of Hanafite jurists and al-Shāfi'ī are attributed to the scribes rather than to al-Marghīnānī.<sup>1</sup>

Al-Hidāya has attracted a large number of commentaries and super-commentaries<sup>2</sup>, of which the best known ones are:

- 1) al-Nihāya: A commentary by the author's pupil, Ḥusām al-Dīn Ḥusayn b. 'Alī, known as al-Sighnāqī (d. 710/1310).
- 2) Mi'rāj al-Dirāya: This work was composed by Qiwām al-Dīn Muḥammad b. Bijārī, al-Kākī, who died in 749/1348.
- 3) Nihāyat al-Kifāya: A commentary by Imām Tāj al-Sharī'a 'Umar b. Ṣadr al-Sharī'a al-Awwal (d. 672/1273).
- 4) Ghāyat al-Bayān: A commentary written by Qiwām al-Dīn Amīr Kātib al-Itqānī, who died in 758/1357.
- 5) al-'Ināya: A well-known commentary by Akmal al-Dīn Muḥammad b. Maḥmūd al-Bābartī (d. 786/1384).
- 6) Fath al-Qadīr: This work was composed by Kamāl al-Dīn Muḥammad b. 'Abd al-Wāḥid al-Sīwāsī, died in 861/1457.
- 7) al-Nihāya: A commentary by Badr al-Dīn Abū Muḥammad Maḥmūd b. Aḥmad al-'Aynī, who died in 855/1451.
- 8) Nihāyat al-Nihāya: This commentary was written by Muḥammad b. Maḥmūd, known as Ibn Shihna al-Ḥalabī (d. 890/1485).

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1. Ibid., loc. cit.

2. For more information on this, see GAL, SI, 644 and KZ, II, 2031.

Al-Hidāya is one of the first texts of Islamic law to be translated into English. It was done by Charles Hamilton from a Persian translation of the work in 1791. This work has appeared in two editions, the last of which was reproduced recently (Lahore, 1975).

VI. Majma' al-Bahrayn

The full title of the work is Majma' al-Bahrayn wa Multaqā al-Nayyirayn.<sup>1</sup> Its author Muzaffar al-Dīn Abu 'l-'Abbās Aḥmad b. 'Alī b. Tha'lab,<sup>2</sup> is known as Ibn al-Sā'atī apparently because of his father's profession.<sup>3</sup> The biographical sources do not give detailed information of his education and posts. However, we know that he achieved popularity through his chief work Majma' al-Bahrayn which is regarded as being one of the "four texts". It begins:

" الحمد لله جاعل العلماء انجبالا هتداء من زاهرة واعلاما  
للافتداء ظاهرة وحجة على الحق فاطمة... الخ "

Then the author describes his work:

"This is a book small in size for anyone who wants to memorise it, yet it has a vast and

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1. KZ (II, 599) erroneously gives it as Nahrayn, but, since the author is referring to the Mukhtaṣar of al-Qudūrī and the Manzūma of al-Nasafī as being the rising Sun and Moon, it must be Nayyirayn. (Cf. the introduction of Majma' al-Bahrayn.)
  2. The MS. (in Süleymaniye, Esat Efendi, Nu:909) gives it as "Thaghlib".
  3. Cf. Jawāhir, I, 80, Tāj al-Tarājim, p. 6.



deep knowledge for anyone who wants to have mastery over it. For the intelligent its symbols become clear, for the shrewd its treasures become uncovered. Its language is attractive for its elegant style. It is inimitable and cannot be surpassed by other works of similar nature.."

The author then names the works which he used as sources; the Mukhtaṣar and the Manzūma, both of which are described as being overflowing seas.

In the text the views of the lawyers are presented in a way different from that of other sources. For example, a nominal sentence indicates Abū Ḥanīfa's view, a verbal sentence in the past tense indicates Imām Muḥammad's and so on. In addition to this arrangement, certain letters are placed over the lines as an indication of opposition to the given view. i.e. ( ح ) denotes Abū Ḥanīfa, ( ي ) Abū Yūsuf, ( م ) Imām Muḥammad, ( ز ) Imām Zufar, ( ع ) Imām Mālik, ( ش ) Imām Shāfi'i.

In the work, divergencies between various rites are shown as well as the differences within the Hanafite rite. Its composition was completed in 690/1291. The author, Ibn al-Sā'atī is regarded as being one of the prominent members of the muta'akhkhirūn, alongside the authors of the Kanz, the Mukhtār and the Wiqāya.<sup>1</sup> He died in 694/1295,

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1. Cf. Savvas Pacha, II, 34.

four years after the completion of his work. Besides the Majma', he also composed another work which is entitled Kitāb Badī' al-Nizām on the principles of fiqh.<sup>1</sup>

The most important of the commentaries written on the Majma' are:

- 1) Sharḥ al-Majma' written by Abu'l-Qāsim 'Abdallāh b. Yūsuf al-Mustansir billāh, whose date of death is not reported.
- 2) al-Mughnī, composed by Aḥmad b. al-Aḍrab al-Ḥalabī.
- 3) Sharḥ al-Majma' is the work of Shams al-Dīn Muḥammad b. Yūsuf al-Qūnawī, who died in 788/1386.
- 4) Tashnīf al-Masma' fī Sharḥ al-Majma' is the work composed by Aḥmad b. Muḥammad b. Sha'bān al-Ṭarābulusī and was completed in 967/1559.
- 5) al-Mustajma', a commentary written by a celebrated Hanafite jurist, Badr al-Dīn Maḥmūd b. Aḥmad al-'Aynī, died in 855/1451.
- 6) al-Mushra' fī Sharḥ al-Majma', written by Muḥammad b. Aḥmad b. al-Diyā' al-Makkī, who died in 854/1450.
- 7) Sharḥ al-Majma', composed by Shihāb al-Dīn Abu'l-'Abbās Aḥmad b. Ibrāhīm, who died in 767/1365.
- 8) Sharḥ al-Majma' is another important commentary, written by 'Abd al-'Azīz b. Malak, known as Ibn Malak.

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1. Cf. GAL, I, 383.

The Majma' is a valuable source for a comprehensive study of the orthodox rites, but its use, compared with the use of the Hidāya and the Qudūrī, was limited in the Ottoman Empire, most probably because of the fact that it was not devoted exclusively to Hanafite principles.



## CHAPTER V

THE MULTAQA 'L-ABHUR

THE MULTAQQA 'L-ABHUR

1. Circumstances of its composition

The Multaqā, one of the most celebrated sources of the Hanafite law, is the chief work of Ibrāhīm al-Ḥalabī. The author does not mention any commission by the government of that time for the composition of the work, but states conventional reasons for it in the introduction:

"Certain people, who wanted to derive benefit from it, asked me to compile a work consisting of (the information of) Qudūrī, the Mukhtār, the Kanz and the Wiqāya, in an easy style. I answered this request positively and also added some information from the Majma' and the Hidāya where it was needed."<sup>1</sup>

However, we may presume that al-Ḥalabī must have sensed a need in his society for a comprehensive and yet concise handbook. By compiling such a work, in fact, he must have been answering a common need rather than a demand from specific people. Meron (L'Obligation Alimentaire.. p. 65) writes on the subject:

"After the accumulation of numerous voluminous works during the Mamluk Period the need to have a résumé of it became felt."

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1. The Multaqā, p. 2.

Although this statement is partly correct, one should bear in mind that the Multaqā was composed in the Ottoman capital, and the number of works written on Hanafite law under the Mamluk sultans is also limited (see GAL, II, 400pp.)

As a title "Multaqa 'l-Abhur" (Confluence of the Seas), indicates this is intended to be a comprehensive work uniting in itself a number of earlier standard compilations on Hanafite fiqh. The date of the beginning of its composition is not known, but the work was completed on the 23rd Rajab 923/the 11th September 1517, according to the information given in reliable manuscripts.<sup>1</sup>

## 2. Its arrangement

The work is arranged according to the classical division of a Hanafite law book, being divided into kitābs and further subdivided into bābs and faṣls. A complete list of the chapter headings of the Multaqā is given at pages 207-9, below. It begins:

الحمد لله الذى وفقنا للتفقه فى الدين الذى هو حبله المتين  
و نضله المبين و مبرات الانبياء و المرسلين... و بعد  
فيقول المفتقر الى رحمة ربه الغنى ابراهيم بن محمد الحلبى..

The text proper begins with Kitāb al-Ṭahāra which is followed by Kitāb al-Ṣalāt. The work ends with Kitāb al-

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1. Multaqa 'l-Abhur, Topkapı Sarayı, Mss.number EH 786 and III Ahmet, A 888 and A 890. The last one is apparently an autograph copy. ( See colophon. )



Farā'id, as usual. In addition to bābs giving information around one specific topic, sometimes miscellaneous legal matters are collected in one section, mostly at the end of the chapter.

The presentation of the information itself in the Multaqā is more methodical than that of its predecessors. For example, in many instances the information is classified under headings, such as fard, wājib, sunna, mustahabb, whilst the same information is given by its sources haphazardly, without making such classifications. In this respect, the presentation of the Mukhtār is relatively good but lacking in consistency.

Despite his admiration for the Multaqā, D'Ohsson did not approve of its arrangement and wrote:

"... the Multaqā encompasses all principles of civil, criminal, military, fiscal, judiciary laws. However there is little methodology in the writing of these laws. Most of the subject matters are mixed up. In order to render them clearer and more intelligible we have allowed ourselves to introduce them in another order."<sup>1</sup>

D'Ohsson's new order, dividing the Multaqā into five categories as, Religious, Civil, Criminal, Political and Military codes, has been attacked by many, such as Dr. Warms and Savvas Pacha. The main argument of these two scholars

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1. See D'Ohsson, Tableau Général, I, 22.

is that the division and method of modern European law cannot be applied to fiqh since their natures are completely different from each other. Schacht, who used the Multaqā as the basis for his presentation of Islamic law, arranged its contents "according to the broad systematic divisions of modern legal science", as he puts it, justifying this in the following words:

"... certainly not with any idea of imposing alien categories on Islamic law, but in order to enable the reader to appreciate its doctrines against the background of modern legal concepts and to throw into relief not only what is peculiar to it but also what is missing there."<sup>1</sup>

This procedure is certainly valid in terms of presenting Islamic law to the western reader, but is not really helpful for studying a work of Islamic fiqh as such.

When al-Ḥalabī presents different views of the three Imāms, namely Abū Ḥanīfa, Abū Yūsuf and Imām Muḥammad, the preferred view precedes others, unless it is qualified by such expressions as "this is the most correct one," "the legal decision is on this" and so on.<sup>2</sup> The differences amongst later jurists (muta'akhkhirūn) are also noted

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1. J. Schacht, An Introduction...., p. 114.

2. Al-Ḥalabī himself states this in the introduction to the Multaqā, see pp.1,2.

in the Multaqā and these are referred to and qualified by certain conventional expressions. When the word "Imām" is used by itself, it denotes Abū Ḥanīfa, whilst "al-Imāmān" and other dual forms, like "qālā", denote Abū Yūsuf and Imām Muḥammad. Besides these three jurists, another prominent jurist, Imām Zufar, is occasionally mentioned and his views on certain matters are reported.

### 3. The terminology of the Multaqā

One of the features which distinguishes the Multaqā from its sources is its extensive use of a wide variety of legal and religious terms. Although many such terms do exist in the sources, al-Ḥalabī employs them more frequently than his predecessors. The Hidāya makes more consistent use of this legal terminology than do the other sources but even so does not do this with anything like the frequency of the Multaqā. In addition the Hidāya offers little guidance or qualification regarding the various decisions which it quotes, while the Multaqā offers much more practical guidance by indicating preferable decisions by such phrases as huwa al-ṣaḥīḥ or wa bihi yuftā etc. Thus compared to its sources the Multaqā is clearly more useful as a handbook for a practising qādī. As the Multaqā was so widely used, whether for iftā' or qadā',<sup>1</sup> it is essential

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1. There are important differences between these two terms, iftā' and qadā'. For example a fatwā is not binding whilst the decision of a qādī is. For details see



to understand its terms thoroughly, to know whether they determine something religious, moral or legal and to pinpoint the varying degrees of prohibition or permissibility which they denote. The terminology in the Multaqā may be summarised as follows: <sup>1</sup>

I. THE RELIGIO-MORAL TERMS: These terms cover almost all human actions and qualify them. In many cases some of these terms are used interchangeably. Occasionally jurists of the Hanafite rite differed on the qualification of certain principles; for example one of them qualified an act as being makrūh (disapproved) while another one held that it was jā'iz (permissible). Al-Ḥalabī in most instances presents these divergencies and usually makes his own choice. We may enumerate the religio-moral terms as:

a) Fard denotes obligatory actions established on decisive proof. When such an action is performed, the agent is rewarded; in the case of its omission the agent is punished. Fard actions are sub-divided into two, as being fard 'aynī and fard kifāya. The former is used to denote actions which are obligatory on every individual, such as ritual prayers and fasting. The latter denotes actions which are

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1. The definitions given in the following pages have been compiled from sources such as Ö.N.Bilmen's Hukuku İslamiyye..., al-Khashnawī's Bayān al-Dīn (notes by Mia Brandel Syrier), and EI alongside other works of secondary importance.

obligatory on the collective body of the Muslims and their observance by some frees the rest from responsibility. Funeral prayers fall into this category.

- b) Wājib may be defined as fard with the difference that it is not established on a decisive proof and in some cases it results from man's own activity. For example, if a person recites one of the prostration verses<sup>1</sup> from the Qur'ān, it is wājib (obligatory) on him to offer the prostration of recitation.
- c) Sunna denotes actions the observance of which is rewarded but their omission is not punished. This is also divided into two; namely, sunna mu'akkad and sunna ghayr mu'akkad. The degree of desirability for the performance of the former is higher than that of the latter. Sunna may be used in the meaning of "customary" or "traditional". In the category of sunna we may also include mustahabb (desired), mandūb (recommended), nāfila (super<sup>e</sup>erogatory<sup>work</sup>) and ādāb (good style) which are occasionally used interchangeably. The omission of these is not punished. For example, it is recommended that one should not eat anything on the morning of a festival-day until the prayer has been made.

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1. These are 14 Qur'anic verses upon whose recitation the reciter and listeners are required to perform prostration. For the chapters and numbers of these see the Multaqā, p. 22

- d) Jā'iz and Mubāh denote actions which are neither rewarded nor punished upon their performance or omission. However, when they are qualified by karāha, such as jāza ma'a karāhatin, then the acts should rather be avoided.
- e) Makrūh is used to denote actions which are not punished upon their performance despite disapproval of them. Such actions are also divided into two; makrūh tahrīmī and makrūh tanzīhī. The former is nearer to unlawfulness, and the latter to lawfulness.
- f) Harām denotes actions which are prohibited by the sacred law, based on decisive proof, such as drinking alcohol, or committing theft.
- g) Halāl is used to denote acts which are lawful to do or to omit, such as "to wear silk is lawful for women." (p. 189)

II. THE TECHNICAL LEGAL TERMS: Although it is not always possible to draw sharp distinctions between religio-moral terms and technical legal ones,<sup>1</sup> we may enumerate the following terms in this group:

- a) Lazima and its derivations denote that something is "necessary" or "obligatory" (see below g)
- b) Bāha and its derivations are used to denote permitted and indifferent actions.
- c) Sahha, yasihhu, sahīh mean "valid", "correct" and
- 1. Compare the two "scales of qualifications" identified by Schacht. (Op.cit.pp.120-123)



- d) Lā budda denotes "must", "there is no escape from".
- e) Yanbaghī is used to denote "necessary" or "required".
- f) La ba'sa bi .. means "there is no harm in .." such as "there is no harm in a dhimmī's visiting the sacred mosque." (p. 192)
- g) 'Alayhi is used to denote "must", "required" and often used interchangeably with lazima. I.e. lazimahu damun, and 'alayhi damun "he must offer a sacrifice" (p. 43)

III. THE TERMS OF VALIDATION AND INVALIDATION: The most commonly used of these terms in the Multaqā may be cited as follows:

- a) Batala As a verb it means "to become null and void" and the related adjective bāṭil denotes "null and void". For example: "The Friday prayer becomes void by the expiration of the time of the noon-prayer." (p.24)
- b) Fasada As a verb it means "to become invalid" or "to be impaired". The adjective fāsid means "invalidated". For example: If, "during a prayer led by the Imām, who is capable of recitation, a non-reciter replaces the Imām to complete the last two rak'as, this part of the prayer becomes invalid (fasadat)." (p. 16)
- c) Saqata means to be non-applicable or non-obligatory. For instance; "if the master should marry a slave girl belonging to himself and afterwards should kill her before cohabitation the dower becomes non-applicable." (p. 55)

- d) Naqada denotes as a verb "to invalidate" and the noun naqd means "invalidation". For example; "things which invalidate ablution also invalidate tayammum." (p.6)
- e) Mana'a and its derivations denote "to preclude", "to prevent" and "preclusion". For example: "The istihāda and likewise continuous nosebleeding do not prevent a woman from offering prayers and observing fasting." (p.8)

IV. THE TERMS OF QUALIFICATION: In the Multaqā legal decisions and principles are given under traditional chapter headings and different views of the Hanafite lawyers on real and hypothetical cases are presented to the reader. These views, namely those of Abū Ḥanīfa and his two celebrated disciples, Abū Yūsuf and Imām Muḥammad naturally do not agree in all cases. They often differ as regards details and succeeding generations of lawyers have selected one of the two or more opinions expressed by them. In the Hidāya these selected views are <sup>sometimes</sup> qualified as being "the most authoritative", "the most preferable" and so on. Al-Ḥalabī, being an authority on fiqh, makes his own selection between two or more reported variants. Most probably he wants to guide his reader to what he considers to be the best and the most sound decision. In the introduction of the Multaqā he says:

"I did not neglect to exert efforts to advise the reader on 'the most sound' 'the strongest' and 'the chosen' view for issuing a legal decision."

In deciding which of the variants is "the most sound" he



occasionally follows the Hidāya, when this source offers an opinion, but usually makes the decision himself, since in many cases there is no guidance in the sources to the "preferred view". As for the Multaqā's other predecessors, with the exception of the Hidāya, these simply presented the legal decisions and principles without such qualifications. This aspect of the Multaqā seems to have been one of the factors which made the work preferable to its sources. The most important of these qualifying terms are:

- a) Wa bihī yuftā: "legal decisions are given on the basis of this view." For example: "If a person in the countryside hears the call for it, the Friday prayer is incumbent on him, in the view of Imām Muḥammad and the legal decision is given on this principle." (See Kitāb al-Ṣalāt, p. 24) The term wa 'alayhi al-fatwā is also used with the same meaning.
- b) Huwa al-ṣaḥīḥ: "this is the sound or correct [view]." The superlative form of it, al-aṣaḥḥ, is also used to the same effect. For example: "According to one opinion, in the process of ablution it is necessary to rub one fourth of the beard, but in the most sound view it is necessary to rub the part adjoining the face." (p. 3) (See Appendix B of this work, p. 347)
- c) Huwa al-mukhtār, "this is the chosen one", is also used as well as fi'l-mukhtār. For instance; "the used water is itself clean but cannot be used for cleaning purposes and this is the chosen (decision)." (See the section on pure water, p. 5, Appendix B of this work, p. 351)



- d) Wa 'alayhi al-'amal indicates a commonly accepted and practised action. Huwa ma'mūl bihi is also used in the same way. (See p. 74, also p. 392 of this work Appendix B)
- e) Fi'l-Azhar denotes a decision chosen amongst others for being "the most manifest". For example: "A Hanafite does not join the Shafiite imām for the qunūt of the dawn prayer. In the view of Abū Yūsuf he does, but in the most manifest view he stands silently." (See the section on nawāfil, p. 18)

V. OTHER TERMS: In addition to the terms mentioned above, there are some others used in the Multaqā, either indicating the original source of the information or basing the decision on certain principles. These terms are:

- a) Zāhir al-riwāya and zāhir al-madhhab; both are used to indicate that the decision is taken from one of the six books compiled by Imām Muḥammad and containing the views of himself in addition to those of Abū Ḥanīfa and Abū Yūsuf. These books are al-Mabsūṭ, al-Jāmi' al-Ṣaghīr, al-Jāmi' al-Kabīr, al-Siyar al-Ṣaghīr, al-Siyar al-Kabīr and al-Ziyādāt.<sup>1</sup>
- b) 'Alayhi muta'akhhirūn denotes that a particular decision is commonly accepted by later generations

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1. See Bilmen, op. cit., I, 333 and M. al-Tahānawī, Kashshāf Istīlāhāt al-Funūn, (Calcutta, 1862) I, 931.

of lawyers. Although the term "later" does not indicate any specific era, it generally refers to the lawyers of the fourth century A.H. and onwards. For example; " ... and in the view of Imām Muḥammad it is accepted for movables, and later lawyers (agree) on it and <sup>the</sup> fatwā is given on this view." (Kitāb al-Da'wā, p. 129)

- c) 'Alayhi 'āmmat al-mashāyikh is a general term denoting the agreement of all lawyers on that particular case.
- d) Ijmā'an,<sup>1</sup> "according to consensus", indicates that a decision is based on the principle of consensus. For example, "If a husband should divorce his wife before cohabitation, he is still obliged to pay half of the prescribed dower, according to consensus. (See Bāb al-Mahr, p. 52)
- e) Ittifāqan, "by unanimous agreement" For example, the act of divorce by an apostate is accepted as being valid unanimously. (p. 100) This term is also used for giving more emphasis to the validity or invalidity of certain acts. i.e. saḥḥa ittifāqan, baṭala ittifāqan and so on.

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1. For the application of this principle in Islamic law see 'A. Khallāf, 'Ilm Usūl al-Fiqh (Beirut, 1972), pp. 45-52 and Turkish tran. H. Atay, İslām Hukuk Felsefesi (Ankara, 1973) pp. 191-98.

- f) Istihsānan<sup>1</sup> denotes that the decision is based on the principle of "preference" or "public interest".
- g) Diyānatan indicates that the given decision is based on a principle of piety. Such decisions are not binding and the matter is left "between God and the person."<sup>2</sup>

It should be borne in mind that occasionally some of these above mentioned terms are used interchangeably and a clear-cut distinction cannot be made between them.

It seems that in many instances when al-Ḥalabī borrows information from various sources, he also borrows the terms as they stand and probably sees no necessity to maintain a uniform and consistent use of one of the two or more of similar terms which denote the same meaning.<sup>3</sup>

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1. This principle is rejected by Shafiites, Shiites and most of the Mutazilite theologians. It is mainly applied by Hanafites; Hanbalites and Malikites make use of it occasionally. For a detailed study of this principle and arguments for and against it see A. Şener, Kıyas, Istihsan, Istislah; also below, p.212.
  2. See al-Tahāwī, op. cit., I, 503.
  3. For example, such terms as qawad and qisās for retaliation, and jimā', waṭ' and dukhūl for sexual intercourse are used interchangeably.



4. The contents of the Multaqā

As has been noted previously, the arrangement and order of the chapters in the Multaqā follow the traditional lines and even the wording of the chapter headings show an absolute conformity. These chapters (kitāb) are:

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| I     | - | Chapter on ritual purification.                           |
| II    | - | Chapter on ritual prayer.                                 |
| III   | - | Chapter on alms-tax.                                      |
| IV    | - | Chapter on fasting.                                       |
| V     | - | Chapter on the Pilgrimage.                                |
| VI    | - | Chapter on marriage.                                      |
| VII   | - | Chapter on fostering.                                     |
| VIII  | - | Chapter on divorce.                                       |
| IX    | - | Chapter on the manumission of slaves.                     |
| X     | - | Chapter on vows.  |
| XI    | - | Chapter on the fixed punishments.                         |
| XII   | - | Chapter on theft ( <u>sariqa</u> ).                       |
| XIII  | - | Chapter on the <u>Siyar</u> .                             |
| XIV   | - | Chapter on foundlings (of abandoned children).            |
| XV    | - | Chapter on foundlings (of property).                      |
| XVI   | - | Chapter on fugitive slaves.                               |
| XVII  | - | Chapter on missing persons.                               |
| XVIII | - | Chapter on partnership.                                   |
| XIX   | - | Chapter on <u>waqfs</u> (religious endowments).           |
| XX    | - | Chapter on sale.  |
| XXI   | - | Chapter on <u>sarf</u> sale (i.e. selling gold for gold). |

- XXII - Chapter on surety .
- XXIII - Chapter on the transfer of debts.
- XXIV - Chapter on administration of law.
- XXV - Chapter on evidence.
- XXVI - Chapter on the appointment of agents.
- XXVII - Chapter on claims.
- XXVIII - Chapter on acknowledgements.
- XXIX - Chapter on amicable settlements (sulh).
- XXX - Chapter on mudāraba (sleeping partnership).
- XXXI - Chapter on deposits.
- XXXII - Chapter on loans.
- XXXIII - Chapter on gifts.
- XXXIV - Chapter on hire.
- XXXV - Chapter on mukātabs (slaves who have concluded a contract of manumission).
- XXXVI - Chapter on walā' (the relation between the master and his freed-man).
- XXXVII - Chapter on compulsion.
- XXXVIII - Chapter on hajr (interdiction).
- XXXIX - Chapter on ma'dhūns (slaves who have been given permission to trade).
- XL - Chapter on usurpation.
- XLI - Chapter on shuf'a (right of pre-emption).
- XLII - Chapter on division (qisma).
- XLIII - Chapter on compacts of cultivation.
- XLIV - Chapter on compacts of gardening.
- XLV - Chapter on ritual slaughter.

XLVI	-	Chapter on sacrifice.
XLVII	-	Chapter on abominations.
XLVIII	-	Chapter on cultivation of waste lands.
XLIX	-	Chapter on prohibited liquors.
L	-	Chapter on hunting.
LI	-	Chapter on pawning.
LII	-	Chapter on offences against the person.
LIII	-	Chapter on fines.
LIV	-	Chapter on levying of fines..
LV	-	Chapter on wills.
LVI	-	Chapter on hermaphrodites.
LVII	-	Chapter on division of inheritance ( <u>farā'id</u> ).



5. Some Observations on the Multaqā and its Sources

As indicated above, one of the striking differences between the Multaqā and its sources is the former's more methodical arrangement and al-Ḥalabī's capability in selecting one particular view amongst many. The sources generally either presented only one view which they thought was the most correct one, or merely advised their reader of the alternative views, making no choice or preference between them. Al-Ḥalabī, in addition to making a choice amongst the views of the three Imāms, Abū Ḥanīfa, Abū Yūsuf and Imām Muḥammad, also indicated the "most correct" one amongst the views of the later generations of jurists. D'Ohsson praises the comprehensiveness of the Multaqā:

"Shaykh Ibrāhīm al-Ḥalabī whose knowledge in no way was less than that of the earlier jurists compiled, under Sulaymān I, another code which takes into account what had been stated by the Imāms of the first three classes.<sup>1</sup> He also gives the opinions, explanations and

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1. According to D'Ohsson's classification these are: Abū Ḥanīfa, al-Shāfi'ī, Imām Mālik, Aḥmad b. Ḥanbal, Abū Yūsuf, Imām Muḥammad, Imām Zufar, al-Ṭahāwī, al-Sarakhsī and Qāḍīkhān. Cf. Tableau Général, I, 13-18.

comments of the doctors of the fourth, fifth and sixth<sup>1</sup> classes."<sup>2</sup>

Another superior aspect of the Multaqā as compared to its sources is that in the selection of the "most correct" view the prevailing conditions in society are taken into account and the most suitable decision is chosen in order to meet the needs of that period. Such decisions are marked by phrases like: "in our time the legal decision is based on this" and "in the present time the decision is this" and so on. For example; in the chapter dealing with "evidence " on an inquiry by the qādī about the witnesses he states:

"No investigation by the qādī is needed into the character of the witnesses, unless an appeal is made by the defendant, with the exception of hadd and retaliation punishments. However, the two Imāms held that an inquiry must be made with regard to the witnesses, both openly and secretly in absolutely all cases, and the legal decision is based on this view in our present time."<sup>3</sup>

In his selection a considerable number of views which

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1. The jurists who are included in these categories are: al-Karkhī, al-Qudūrī, al-Marghīnānī, al-Mawṣilī, al-Nasafī and al-Mahbūbī. See ibid., I, 18-19.
  2. Ibid., I, 22.
  3. و به یفتی فی زماننا See Kitab al-Shahādāt, p. 133.

are based on the principle of istiḥsān<sup>1</sup> are given priority over others. Since this principle had been applied extensively by the Hanafites<sup>2</sup> it was quite natural for al-Ḥalabī to include some decisions based on istiḥsān. For example; in the section on "disagreement of witnesses on their testimony":

"In the case of buying an object or a slave freeing himself from his master, if the two witnesses disagree on their testimony on the sum of money, then their evidence becomes void."

But in the case of marriage a different view is given:

"If one of the two witnesses testifies to a dower of one thousand (dirhams) and the other to a dower of one thousand one hundred, the former evidence is accepted on the basis of istiḥsān."<sup>3</sup>

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1. "Preference", i.e. selection of the most reasonable and convenient interpretation. It is also defined as "the preference of a subtle analogy over a clear and apparent one, or creation of an exception to a general rule by the interpreter, who accepts it as better and more suitable after much thought and reasoning." See 'A. Khallāf, 'Ilm Uṣūl al-Fiqh (Turkish translation by H. Atay, Ankara 1973), p. 227.
  2. See Şener, Kıyas, Istihsan, Istislah, p. 158.
  3. See Kitāb al-Shahādāt, p. 135.



Another example may be cited from the chapter on marriage:

"If a person asks another one to marry him to a woman, and the second person marries him to a female slave, according to Abū Ḥanīfa this contract is valid. However, in the views of the two Imāms this contract is void, and the latter view is based on istiḥsān."<sup>1</sup>

Al-Ḥalabī gave priority to this view despite Abū Ḥanīfa's opinion, most probably with the aim of preserving one of the basic requirements of marriage which is equality of the partners.

In his selection al-Ḥalabī occasionally referred to certain "later" works if he could not find satisfactory evidence in earlier sources, or quoted them simply as a supporting view. For instance, in the case of a girl who has attained the age of reason and discretion ('āqila wa bāligha) and marries herself without the permission of her guardian, according to some lawyers the latter has a right to object to this contract on the basis of the "inequality" of the partners. After quoting a report from Abū Ḥanīfa through Ḥasan b. Zayyād, our author refers to a fatwā given in the collection of Qādīkhān supporting the view which objects to this marriage without the consent of the

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1. See Kitāb al-Nikāh, p. 52.

guardian. In Majma' al-Anhur (I, 321) this view is vigorously supported and described as being the most correct and cautious view. It is also suggested that the sultan should order the enforcement of this view to avoid inconveniences like the guardian's taking the matter to court and unjust decisions being given by some judges.

Although the clarity and precision of the Multaqā has been praised by several writers, the efforts of al-Ḥalabī to make the work as concise as possible<sup>3</sup> have also caused some obscurity. For example, in the chapter on "ritual prayers" he cites the expression فَقَسَى سَمِج without even advising the reader that it is an abbreviation for a tradition. He must have expected his reader to know this abbreviation, in reference to which (ف) denotes iftitāh, (ق) denotes qunūt ... etc.<sup>1</sup> This would seem to be an over-estimation of his reader's legal expertise.

In using certain terms in the Multaqā the author omits their explanation which is given in the sources. For example when he mentions the words madhī, manī and wadī,<sup>2</sup> he does not describe what these are, as is done in the Hidāya. Normally a student of fiqh is expected to know such terms, but bearing in mind the beginners who might

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1. For the text of the tradition see Majma' al-Anhur, I, 14.

2. See Kitāb al-Taḥāra, p. 4.

3. This he does mainly by omitting the "proofs" (from Qur'ān and ḥadith) from which the principles are derived.

have occasion to use or consult the Multaqā it would have been helpful and more practical to explain them.

In certain controversial matters al-Ḥalabī followed the popular view and kept his work from being a subject of dispute. On the matter of the permissibility of wiping leather socks ( المسح على الخفين ) in the course of ablution, he followed the most commonly accepted view which permits this practice. His colleague Ḥiwi-zāda Muḥyī al-Dīn Efendī (d. 954/1547), who maintained that this practice is not permissible, stood almost alone and found no support from the 'ulamā' of the period. Although al-Ḥalabī supported many of his views, on this matter he opposed him and this opposition is particularly noted in the biographical sources.<sup>1</sup>

Al-Ḥalabī sometimes reports cases which are purely of a local nature. It will suffice us to mention a few of them to show the author's dependence on the sources: in many cases his reports are presented without significant modifications. For example, the chapter on the levying of fines relates entirely to the levying of fines upon the Arabian tribes for offences unintentionally committed by an individual tribesman. Thus C. Hamilton comments, in discussing the same point as treated in the Hidāya:

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1. See Al-Kawākib al-Sā'ira, II, 28, and pp. 104, 150-1 of this work.



"they seem to be useless and impracticable  
in a more advanced state of refinement..."<sup>1</sup>

Another feature which also reflects a local flavour is the use of many Persian sentences. Especially in chapters such as "Marriage" and "Divorce" many of these are cited.

As may be seen in Appendix B, the only source giving examples in Persian is the Wiqāya. Here we see an example of borrowing by al-Ḥalabī without modification of his source material.<sup>2</sup>

Occasionally the author's strict standards and abhorrence of certain matters are reflected in the Multaqā so that he expresses a view based solely on his personal feelings, ignoring opposing opinions. For example, although "listening to music" is a controversial matter and there are many who claim that it is permissible, al-Ḥalabī states that it is ḥarām<sup>3</sup> without indicating the existence of any other view. In this case his attitude may be regarded as subjective and indeed didactic.

One other important feature of the Multaqā is the way in which it cites as examples cases which are highly unlikely to occur and in fact purely hypothetical. The following is an example:

"If a man dies as a result of his own act,  
the act of Zayd, the act of a snake and

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1. C. Hamilton, op. cit., p. XXVI

2. For examples see Appendix B, p. 383

3. See Kitāb al-Karāhiyya, p. 192

the act of a lion, Zayd should pay one third of the blood money."<sup>1</sup>

or

"If a Muslim shoots at a prey then becomes a fire-worshipper and his shot kills the prey, in this case to eat that prey is still lawful."<sup>2</sup>

In fact, not only in the Multaqā but also in other sources hundreds of these examples are given. C. Hamilton discusses this point also and gives some of the reasons that lie behind these examples, which at first seem to be unnecessary and a waste of time:

"... several of the examples adduced in the course of <sup>[the Hidāya]</sup> it must appear unnatural or improbable, and the arguments upon them frivolous or absurd ... but a due regard to local circumstances will teach us to consider that a number of the cases here cited in elucidation of particular points of law, although they may seem to a European to be such as can seldom or never really happen, would yet appear to a Mussulman to contain no more than a necessary provision with respect to cases of frequent or probable

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1. See Kitāb al-Jināyāt, p. 204

2. Ibid, p. 203

occurrence. Many of them indeed seem to be proposed merely as exercises for the exertion of mental acumen, and to display of subtle distinctions; and as such they are perhaps not without their use. With respect to the argumentative part in particular, although abounding in futile sophistry, still it possesses the advantage of leading to a full development of the principles."<sup>1</sup>

However, in studying the Multaqā the conditions which were prevailing in the 16th century should be taken into account, and the assessments must be made from this viewpoint.

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1. Hamilton, op. cit., p. xiii.



## CHAPTER VI

THE COMMENTARIES ON THE MULTAQĀ

The Commentaries on the Multaqā

The importance attached to the Multaqā throughout the centuries may be seen most clearly in the number of commentaries it attracted, the earliest of which was written in al-Ḥalabī's own lifetime. Fifty such works<sup>1</sup> are known to us, but it can be confidently assumed that more were written some of which are lost and others still awaiting discovery.

Most of the commentators of the Multaqā were engaged in teaching in the madrasas, and the Multaqā was one of their text-books. The very concise nature of the work required that they should make comments and explanations, and these eventually became the commentaries proper.

Since almost all the authors used the same basic Hanafite texts, these commentaries are similar to one another in organization and style, and there seems little purpose in attempting to describe what specifically individual features they might possess. In fact, their chief value to this present study lies in attesting to the continued interest in the Multaqā over the centuries and throughout the Empire. The most significant of these commentaries, judging by the quantity of manuscripts still in existence and by the fact of their having been actually

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1. Thirty of these were examined in the course of this study, the locations of another ten are given in the sources and the others are mentioned without location in the sources. The latter two groups are treated together in a separate list at the end of this chapter, (pp.269-276)

printed, are: Majma' al-Anhur by 'Abd al-Rahmān b. Shaykh Sulaymān; the Turkish translation and annotation Mawqūfāt by Muḥammad Mawqūfātī, and Durr al-Muntaqā by 'Abd al-Rahmān Ḥaṣkafī. The second of these, as might be expected, was in wide use among the Turkish-speaking peoples of the Empire. A detailed examination of these commentaries might well provide an interesting insight into the development of the teaching of fiqh over the centuries, but this would be the subject of another study and cannot be undertaken here.

As will be seen from the following detailed list of commentaries, the chronological and geographical distribution of the authors is very wide and is evidence of continuing and widespread interest in the Muntaqā and of its prominence as a work used in teaching, since the existence of a commentary normally implies teaching in a madrasa.

The earliest commentary, no copies of which are known to survive, was composed in 924/1518 within a year of the Muntaqā's composition.<sup>1</sup> Of the extant commentaries the earliest was composed in 995/1587. The most recent commentary to be written appears to be the one composed

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1. See p. 269, commentary a



in 1279/1862.<sup>1</sup>

Towns in which we definitely know commentaries to have been written include Edirne, Istanbul, Izmir, Damascus, Mecca etc. In other cases, we do not know for certain where they were written, but the teaching posts and qāḍīships of the authors, as indicated in their biographies, may indicate the geographical spread of the Multaqā. Towns in which these writers worked range from Filibe (Philippopolis, mod. Plovdiv), Salonika and Edirne to Istanbul, Izmir, Kayseri, Sivas, Maraş, Antep in Anatolia, and on to Damascus, Nāblus, Cairo, Mecca and Madīna.

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1. See pp. 223 and 275, commentaries a and x respectively.

a-Majra 'l-Anhur 'alā Multaqa 'l-Abhur

This commentary was written by Maḥmūd b. Barakāt b. Muḥammad, known as Nūr al-Dīn al-Bāqānī al-Dimashqī al-Qādirī al-Anṣārī.<sup>1</sup> He was called al-Bāqānī after the village of Bāqān near Nāblus, where his father came from although he was born in Damascus. Here he had his early education from various teachers of the age. He studied fiqh for many years under Shaykh al-Islām al-Najm al-Bahnasī, the khatīb of the Umayyad mosque, until he, too, became distinguished in this branch of learning. He also attended the lectures of Badr al-Dīn al-Ghazzī.<sup>2</sup>

After completing his education he began teaching in various madrasas in Damascus, such as the Baqlāsiyya and Qaymariyya madrasas. Besides his teaching career in the madrasas he also used to preach in various mosques including the Umayyad mosque.

He owned a large library and, in fact, became quite wealthy by trading in books.<sup>3</sup> He composed many works, among them:

- a) A commentary on al-Niqāya.
- b) Another commentary on the Multaqā.
- c) A supplement to the Lisān al-Hukkām.<sup>4</sup>

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1. GAL, SII, 643 k ; KZ, II, 1814

2. Khulāsat al-Athar, IV, 317.

3. Ibid., p. 318.

4. Lisān al-Hukkām fī Ma'rifat al-Aḥkām, by Muḥibb al-Dīn al-Walīd Ibrāhīm b. Muḥammad al-Ḥalabī (d. 882/1477), see GAL, II, 97 and SII, 115

d) Another supplement to the Bahr al-Rā'iq.

e) Condensation of the Bahr in one volume.

The author preferred narrating unusual and strange cases in his works.<sup>1</sup> He died in 1003/1594-95 while he was mudarris of the madrassa al-Qaymariyya. According to a report from al-Najm al-Bahnasī his father who died in 974/1566 had lived 120 years, going back to the time of Ibn Hajar al-'Asqalānī.<sup>2</sup> One of the fiqh teachers of Nūr al-Dīn, Muḥammad al-Bahnasī also wrote a commentary on the Multaqā, but the work was left unfinished at the time of his death in 987/1579.<sup>3</sup> Al-Bāqānī, being his favourite pupil, was asked to write another commentary which would replace his teacher's. He began writing this commentary at the beginning of 990/1582; in 993/1585 he performed the pilgrimage, and completed the work in 995/1587.

The work begins:

بسم الله الرحمن الرحيم الحمد لله الذي شرع  
الاحكام و بين طرق المعاش و المعاد و قوانين الاحكام  
وانار معالم الدين بالنور . . . الخ

The first volume of the work consists of the chapters from Kitāb al-Ṭahāra to Kitāb al-Buyū', and the second volume from Kitāb al-Buyū' to the Kitāb al-Farā'id. The author says that his pilgrimage and some other events hampered his efforts to complete the work sooner. He used the

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1. Khulāṣat al-Athar, IV, 318.

2. Ibid., same page.

3. KZ, II, 1814, but Shadharāt gives the date as 986/1578.



earlier sources on Hanafite law in his composition of the Majra 'l-Anhur, among them:

The commentary on the Hidāya by Ibn Malak

The commentary on the Hidāya by Kamāl b. Humām

The commentary on the Kanz by al-Zayla'ī

Munyat al-Muṣallī

Fatāwāy-ī Qāḍīkhān

Jāmi' al-Fatāwā

Majma' al-Bahrayn

The manuscript used here was written by Ibrāhīm Intadī al-Sha'rāwī, in 1098, and it is in the Süleymaniye, Çorlulu 'Alī Paşa, No: 216.

This is a well-written commentary on the Multaqā, the author having consulted almost all of the basic sources of the Hanafite fiqh. Besides these classical works, he also used several fatāwā collections.

b-Farā'id Multaqa 'l-Abhur

The author of this two-volume commentary is Ismā'īl b. Sinān b. Ismā'īl b. Ḥusayn, who was born and brought up in Sivas. One of his chief teachers was his close relative Shaykh 'Abd al-Majīd al-Siwāsī, to whom he was also a khalīfa.<sup>1</sup>

Another of his works worthy of mention is a commentary on Ibn Nujaym's Risālat al-Ṣaghā'ir wa'l-Kabā'ir.<sup>2</sup> He died in Sivas in 1048/1638.<sup>3</sup>

The commentary on the Multaqā begins:

بسم الله الرحمن الرحيم الحمد لمن منح لنا كنز درر الهداية  
وغرر الوقاية مقدار الكفاية وعصمنا من جمل الجهل  
والفسوية في البداية والنهاية والصلوة على نبيه محمد مخصص بأكمل العناية...

In the introduction the author also prays for the Sultan, Murād Khān b. Sultān Aḥmad, and presumably the work was presented to him. He makes use of many of the basic Hanafite texts.

The Ms.<sup>4</sup> used here is an autograph and was completed in Ṣafar 1035/November 1625.

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1. 'A. Siwāsī, Risālat al-Qadā' wa'l-Qadar, p. 19.

2. See GAL, SII, 426, and 'OM, I, 229.

3. In KZ (II, 1515) the date is given as 1047 H.

4. Süleymaniye, Es'ad Efendī, No: 763-764.

c-Khalīj al-Bihār<sup>1</sup>

This commentary was written by Mu'ayyad al-Dīn Abū 'l-Faḍl Muḥammad b. 'Alī b. al-Mubārak, known as Qaṣṣāb-zāda.<sup>2</sup>

The work begins:

بسم الله الرحمن الرحيم الحمد لمن شرع لنا أحكام الدين القويم  
وهدانا بفضل الرحيم الى الطريق المستقيم والصلاة على سيدنا محمد  
الصطفى ملته كفاية وشريعته هداية و محاسنه نهاية وآراؤه  
خلاصة وأخلاقه نقاية وأنظاره عناية وعلى آله  
النجباء ومن تبعهم من العلماء والأتقيا . . . الخ

The author introduces the titles of well-known Hanafite works into this introduction, like al-Hidāya, al-'Ināya, al-Niqāya, al-Nihāya. Then he continues:

The book called Multaqa 'l-Abhur might be regarded as a drop, but in it is found what is found in the oceans. All learned people are pleased with it since it is so useful and comprehensive.

He then mentions his reasons for writing the commentary, and says:

I wanted to clarify some parts of the text,  
to disclose hidden treasures, and to simplify

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1. GAL, II, 432.

2. Khalīj al-Bihār, Süleymaniye, Şehid 'Alī Paşa, No: 845, 310 ff. in fine naskh.



some of the expressions used in it, so I wrote this commentary and entitled it Khalīj al-Bihār.

There are also some marginal notes.

The work was completed in 1055/1645. It ends:  
تم تسويد شرح ملتقى الابر في يوم الخميس الخامس من الاخماس  
السنة الثاني من اسداس السنة من نصف الاول من شهر  
السنة خمس وخمسين وألف نسأل الله تعالى أن يغفر لي  
خطيئتي بفضله ورحمته .

The copy used was copied by Muḥammad b. Aḥmad in 1080/1669.

d-al-'Atā'

The author of this commentary is 'Abd al-Rahmān Khiṣālī, the son of Qara Dāwūd-zāda Sulaymān Chalabī. He received his mulāzama from Shaykh al-Islām Yahyā Efendī. While ma'zūl from a 40 aqcha madrasa<sup>1</sup> he was appointed in <sup>the</sup> grade of khārij to the Khwāja Tursun, in 1054/1644. In 1061/1650-51 he was appointed to the Pīrī Pasha in Silivri, where he attained the rank of dākhil in 1063/1652-53. After holding the post of mudarris in the Shaykh al-Islām Ḥusayn and the Mihrimāh madrasas, in 1069/1658 he became the qādī of Kayseri for a year, and afterwards held the same post in Chios between the years 1075/1664 - 1077/1666. The qadā' of Sapanca was given him as a ma'īsha in 1077/1666, and Hayrabolu as arpalıq<sup>3</sup> in 1085/1674. Finally, in 1086/1675 he became qādī of Eyüp and died in 1087/1676. He was well-known for his knowledge and scholarship. In addition to this commentary he also compiled a dīwān in Turkish.<sup>2</sup>

The work begins:

بسم الله الرحمن الرحيم الحمد لله الذي أنعمنا بأعطاء العطايا  
وأكرمنا بعفو الخطايا والصلاة على سيدنا محمد وعلى آله  
وأصحابه الأتقيا وبعد يقول العبد الفقير الى رحمة ربه الفني  
النصير السيد عبدالرحمن بن سليمان الشهير بخصالي . . . الخ

The author continues:

1. 40 aqcha, khārij and dākhil are madrasas of different grades. For more details see I.H. Uzunçarşılı, Osmanlı Devletinin İlmiye Teşkilâtı, pp.

2. 'UZ, p. 416 ; VF, II, 671

3. For arpalıq see p. 241, n. 2.

This book (commentary) is written to solve the problems found in the Multaqā and to clarify its obscure points. I entitled it al-‘Atā, since it is the bounty of God.

The work was completed in 1061/1650 and ends:

... وقد وقع تبييضه في يوم الخامس من جمادى  
الاولى سنة احدى وستين وألف على يد  
الفقر الى الله الغني السيد عبدالرحمن خصاله  
1 غفر الله له والديه وأحسن اليه واليه

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1. The manuscript used is in the Süleymaniye, Es‘ad Ef., No: 610, in which the two volumes are bound together. It contains 513 folios.



e - The Mawqūfāt<sup>1</sup>

This is a two-volume Turkish commentary and translation of the Multaqā by Muḥammad Mawqūfātī, who was born in Midilli and educated under various teachers of his time. After completing his education he was given a post and went to Egypt during the early years of Sultan Ibrāhīm's reign, with Quyuḡibashi Muḥammad Pasha. In 1054/1644 he accompanied Ayyūb Pasha and went back to Egypt and held the post of "Dīwān Efendīsi" for three years, then he returned to Istanbul. Sometime later he was appointed Ra'īsu'l-Kuttāb, but after thirteen months, in 1060/1650, he was dismissed purely on political grounds. He stayed at his home and continued composing books but this time he was exiled to Midilli, and accused of conspiracy. During his later years he was questioned a few times more and his ill fate caught him in Iznik where he was executed in 1065/1654-5.<sup>2</sup> He was called "Mawqūfātī" because he had held the post of "Mawqūfātji".<sup>3</sup>

His most important work is this commentary and translation of the Multaqā, which has been printed several times. He also translated Talkhīṣ al-Jāmi' al-Kabīr into Turkish.

The author completed the Mawqūfāt during the reign of Sultan Ibrāhīm, to whom the work is dedicated. In the introduction he introduces the titles of well-known Hanafite works into his prose, thus:

1. See GAL, II, 570 and SII, 643.

2. Girīdī Aḥmad Efendī, Safīnat al-Ru'asā', p. 37.

3. An office in the Ottoman financial administration. See Uzunçarşılı, Osmanlı Devletinin Merkez ve Bahriye Teşkilâtı, (Ankara, 1948), pp. 342, 348.

بسم الله الرحمن الرحيم حمد نجيد و ثنای لا یمد \* أول جناب  
الوجوده كه " زبدة الحقائق " اولان " دررغرر " نوع انسانی  
" ملتقای " دریای علم و کمال \* و " مجمع بحرین " جمال و جلال .. الخ

After the prayers for the Prophet, he gives some traditions concerning 'ilm al-fiqh and the merits of the faqīh, such as:

" و طاعبد الله بشی " أفضل من فقه في الدين "  
" الفقيه الواحد أشد على الشيطان ممن  
ألف عابد جاهل "

and

" من يريد الله به خيرا يفقهه في الدين "

then he says:

I often think about these verses and spend many sleepless nights reading various books in order to increase my knowledge, especially in fiqh. One of the best known works on fiqh is the Multaqa 'l-Abhur, which I have been studying and endeavouring to memorize. It contains solutions to most of the usual problems and is said to contain more than seventeen thousand masā'il.<sup>1</sup>

The author then gives the reasons why he made this commentary and says:

The Multaqā is very concise and sometimes it is very difficult to understand. Another

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1. Mawqūfāt, I, 3-4.

reason is that it is not available to  
people who do not know Arabic, therefore  
I have decided to make a commentary on it  
in Turkish.

The author used many celebrated Hanafite works, some of  
which are mentioned in the introduction, i.e.

Ghāyat al-Bayān by Amīr Kātib b. Amīr 'Uthmān b. Amīr  
Ghāzī al-Itqānī, (d. 758 A.H.)

al-Nihāya by Badr al-Dīn Abū Muḥammad Maḥmūd b. Aḥmad  
al-'Aynī, (d. 855/1451)

al-Kifāya by Nūr al-Dīn b. Maḥmūd al-Ṣābūnī al-Bukhārī  
(d. 580/1184)

al-Baḥr al-Rā'iq

al-Ikhtiyār

Fatāwā al-Tātārkhāniyya

Jāmi' al-Fatāwā

Khizānat al-Fatāwā



f-Ghawwās al-Bihār

The author of this commentary is Darwīsh Muḥammad b. Aḥmad al-Rūmī who lived in the eleventh/seventeenth century. The sources do not give a detailed description of his life, but we know that he was a mudarris and completed his commentary in 1065/1654-55.<sup>1</sup> Thus he must have died after this date. The work begins:

بسم الله الرحمن الرحيم الحمد لله الذي شرح صدر العارفين بالعرفان  
وشرع لهم استنباط الأحكام من السنة و القرآن . . . الخ

Then the author says that while he was teaching the Multaqā to his students, some of his friends asked him to write a commentary on it, clarifying what was obscure and solving certain problems. He continues:

After thinking about the verses

2 وأما السائل فلانتهر \* وأما بنعمة ربك فحدث \*

I decided to write a commentary which would help people with their studies and understanding, and I entitled it Ghawwās al-Bihār.

After this introduction the work continues with the commentary proper, starting with Kitāb al-Tahāra. There are occasional marginal notes in the work. It ends after prayers for the Prophet and for his companions.<sup>3</sup>

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1. H'A, II, 287.

2. Qur'ān, 93:10-11.

3. The Ms. used here is in Süleymaniye, Halet Efendī, No.: 114, copied by Aḥmad b. Ramaḍān in 1065/1654-55.

g - Sharḥ al-Multaqā

This is a commentary on the Multaqā by Muḥammad b. Muḥammad al-Ḥalabī, who was born in Aleppo where he had his early education under various teachers. He travelled to Cairo to complete his studies, and attended lectures at al-Azhar mosque. Sometime later he went to Abyssinia and then returned to Cairo. After attending further lectures there, he journeyed to Istanbul. He presented a risāla to Shaykh al-Islām Bahā'ī Efendī, who held the office between 1649-54.

Muḥammad al-Ḥalabī distinguished himself in Istanbul by his commentary and was called "Shāriḥ-u Multaqā" after its composition. In 1067/1656-57 he was appointed to the Ahmad Agha, in 1068/1657-58 to the Tūtī Latīf madrasas. In 1073/1662-63 he became the mudarris of the Qoja Muṣṭafā Pasha and was appointed to the Şahn in 1075/1664. He continued teaching in various madrasas until his appointment as qādī of Yenīşehir. He held qādīships in various places, including Istanbul, which later he received through the favour of Şadr al-A'zām Muṣṭafā Pasha.<sup>3</sup> He died in 1104 in Istanbul.

Apart from this commentary he has some other works, among them a commentary on <sup>al-</sup> Tarīqat <sup>al-</sup> Muḥammadiyya by

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1. 'UZ, pp. 672-73.

2. A. Altınsu, Osmanlı Şeyhülislâmları, p. 73.

3. Silk al-Durar, IV, 108.

Birgiwī and another commentary on Ṭāshkūbrīzāda's 'Ilm al-Ādāb.

The work begins:

بسم الله الرحمن الرحيم ربّ يسر ولا تعسر  
ربّ تمم بالخير حطاً لك أولاً يا صاحب منية الحمد  
على كل شأن والصلوة على من هو ( . . . ؟ ) وبعد  
فان من الواجبات الشكر على النعم . . . الخ

The Ms.<sup>1</sup> used here is a work of 356 ff. and was copied from the author's own copy by Aḥmad b. 'Abd al-Ḥalīm in 1069/1658-59.

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1. Istanbul, Topkapı Museum, No: A 895.



h-Jāmi' al-Nuqūl wa-Lāmi' al-Uṣūl

The author, Ḥāfiẓ Muṣṭafā b. 'Umar b. Muḥammad, known as Jalab Muṣṭafā Efendī, was born in Üsküdar. In his early years he served in the palace, where he received instruction from Kechi Muḥammad Efendi. He left the palace as a sipāhī, but later devoted himself to learning. He later began teaching in the Süleymaniye Mosque.<sup>1</sup> Apart from his commentary on the Multaqā, he also wrote marginalia to Mollā Jāmī's commentary on al-Kāfiya. (see GAL, I, 304)

The work is in two volumes, and begins:

الحمد لله الذي جعل التفقه في الدين لمن أراد الله به خيرا من اهل الدين  
والصلوة والسلام على رسوله محمد وعلى آله وصحبه اجمعين . . . الخ

After a short introduction, the author gives a brief account of al-Ḥalabī's life. He also states that he consulted many Hanafite works in the preparation of his commentary, seeking to provide explanation where needed. Among the works he used are: commentaries on the Wiqāya and the Majma' by Ibn Malak, the 'Ināya, the Ikhtiyār and various fatāwā collections. The author also adds that he completed the work within a year, having begun it in Muḥarram 1068 and brought it to its end in Dhu 'l-Ḥijja of the same year.<sup>2</sup>

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1. 'UZ, p. 495.

2. Süleymaniye, Es'ad Efendī, Ms. nu. 610.

i-Izhār Farā'id al-Abhur fī Sharḥ Multaqā 'l-Abhur

This is a one volume<sup>1</sup>-commentary by Khalīl b. Rasūl b. 'Abd al-Mu'min, al-Sinūbī. He was born in Akçaçam in Sinop province and had his first education there under the local teachers. He was to become a leading authority on Hanafite law. He died in 1075/1664.<sup>2</sup> He has left two commentaries on the Multaqā: the one described here, which is sometimes given the title Izhār Farā'id al-Abhur wa Īdāh Fawā'id al-Anhur<sup>3</sup>, and another detailed commentary on the chapter on Farā'id in the Multaqā.

The work begins:

بسم الله الرحمن الرحيم الحمد لله الكريم الوهاب المنان  
الذي شرح صدر أرباب الأزهـان . . . الخ

after which the author says that although the Multaqā 'l-Abhur is a small work it contains gigantic seas and its style is very difficult for people of average knowledge. It is for this reason he wrote this commentary, to help in the understanding of the book, by putting it in an easier style and explaining obscure matters.

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1. In some sources the work is mentioned as being in two volumes (for example in 'OM, I, 295) but this is merely due to a physical division. The Ms. used here is in the Süleymaniye, 'Āşir Efendī No: 103, a work of 450 ff. written in naskh and occasionally in ta'liq.
  2. The date of his death is given as 1034/1624-25 in KZ, II, 1815.
  3. 'OM, I, 295; H'A, I, 354.

In this introduction the author states that he used the commentary on the Hidāya by Kamāl b. Humām entitled al-Islāh wa'l-Idāh. The commentaries on the Wiqāya and on Majma' al-Bahrayn by Ibn Malak,<sup>1</sup> <sup>the</sup> commentary on the Kanz by al-Zayla'ī, and al-Ikhtiyār and al-Durar were also used in the composition of al-Sinūbī's work.<sup>1</sup>

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1. Izhār Farā'id al-Abhur, f. 4a.



j -Dhukhr al-Ākhira<sup>1</sup>

This is a commentary, in Turkish, including a Turkish translation, by Hibrī 'Alī Efendī, whose full name is Abū Muḥammad Hibrī 'Alī b. Muṣṭafā b. Pīr Muḥammad, known as Būlbūl-zāda. He was born in Kütahya, where he also received his education.<sup>2</sup> After travelling for some years, he took up residence in Qızlıḥiṣār<sup>3</sup>, where he spent most of his time in writing. When he died about 1080/1669-70 he left many works behind, the most well-known of which are:

- a) Ḥadīqat al-Fuqahā'
- b) Zubdat al-Fikar fī Ziyārat Sayyid al-Bashar
- c) al-Uqūd al-Durriyya fī Sharḥ Farā'id al-Hibriyya
- d) Sharḥ Ḥadīth al-Arba'in
- e) Munyat al-Sālihīn

The commentary begins:

بسم الله الرحمن الرحيم زدني علما يا كريم عديدا  
قطارات أمطار، وعديد زرات أقطار حمدها  
بسيار، وشكرهاى بي شطار، أول عالم أهجاس  
وأسرار و مصطى وظيفه أخيار وأشرار . . . الخ

After prayers for the Prophet and his Companions, the author says:

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1. Although 'OM gives this title, in the body of the text it is given as "نخرة الاخرة"
  2. 'OM, I, 278-79.
  3. A place in the south of the island of Eğriboz (Euboea), mod. Karistos.

"ملتقى الابحر نام مرغوب و مقبول كتابى لسان تركيه ترجمه  
ايدوب مفلق اولان مواضعنى شرح و بيان ايلدم  
و بوشرحه نخرة الاخرة ديو آد ويردم."

There are occasional marginal notes in the work. The Ms. used here<sup>1</sup> is incomplete, covering the chapters between Kitāb al-Tahāra and Kitāb al-Şarf. According to the catalogue of the Süleymaniye, the work was completed in 1073/1662-63, but this date is not given in the text.

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1. Süleymaniye, Serez, No: 945, 224 ff. incomplete.

k-Majma' al-Anhur fī Sharḥ Multaqa 'l-Abḥur<sup>1</sup>

The author of this commentary is 'Abd al-Raḥmān b. Shaykh Muḥammad b. Sulaymān, known as Shaykhī-zāda or Dāmād. He was born in Gelibolu and educated under various scholars and obtained his mulāzamat most probably from Yaḥyā Efendī. He was later appointed mudarris in various madrasas, such as Ḥusayn Efendī and the Qāsimpasha, and held the post of qādī of Salonica between the years 1056/1646 and 1057/1647. In 1057/1647 he was qādī of Edirne for a short period. When he was dismissed from there he was given the arpalıq<sup>2</sup> of Boyabat until 1065/1654, when he became qādī of Istanbul. He held this post for about a year, in the following year Balıkesir was given as an arpalıq and in 1071/1660 he became the qādī of Istanbul for the second time. He held this post until 1072/1661 when he became Qādī-'askar of Anatolia. In the following year he was given Hazargrād as arpalıq. In 1076/1665 he again became the Qādī-'askar of Anatolia and a year later he held the same post in Rūmeli. Finally he was given Tırnova as arpalıq in 1077/1666 and held this until his death in 1078/1667.<sup>3</sup> One of the poets of the period wrote the following chronogram for the event:<sup>4</sup>

برکرا چقدی دیدی تاریخین ربنا قل مقامنی جنت

He was related by marriage to Shaykh al-Islām 'Abd al-Raḥīm Efendī, whose good favour he enjoyed. He was an authority

1. See GAL, II, 570e, and SII, 643e.

2. Arpalıq: the income (hāşılat-ı Shar'ıyya) of one or two qadās, see Uzunçarşılı, İlmiye Teşkilâtı, pp. 118-121.

3. 'UZ, p. 335; VF, ed. A. Uğur, II, 491-2.

4. 'UZ, p. 336.



on fiqh and his most important work is the Arabic commentary on the Multaqā in two volumes. Many manuscripts of it are in existence, and it was often printed.

The first volume begins:

الحمد لله الذي هدانا الى الايمان بهدايته الازلية \* و وفقنا  
لمداومة الصلاة بمعنايته العلية \* و أطلعنا على الاصول  
وما يتفرع عليها من مسائل الحنفية \*

After the customary praises of God and the prayers for the Prophet, the author states:

The book entitled Multaqa 'l-Abhur (the confluence of the seas) is an overflowing sea, and a rain-carrying cloud. Although it is a book of small size and written concisely its depths and its shallows contain the answers to all problems.<sup>1</sup>

The author then points out the place of the Multaqā among the other Hanafite works and continues:

This book is one of the most useful works of the Hanafite sect and complete in its perfection. It does not contain useless information, but neither is it so abridged as to make the sense obscure. Its fame is beyond description, may God bless its author.

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1. Majma' al-Anhur, I, 3.

The author then mentions the other commentaries on the work and explains why he, too, is writing one. He says:

Various learned people have written commentaries on the Multaqā, some of great length and some very concise but the latter add nothing to the original and the others are confused and unsystematic. Their commentaries heal not the sick nor satisfy the thirsty. On the contrary they merely confuse the reader. Therefore I wanted to clarify and explain the main points in respect of what might be obscure or difficult to understand, and to analyze the sweet and the bitter in its content, without giving boring details or shortening it so much that it loses its sense and meaning. Despite my lack of ability, daily worries, weariness and other difficulties I did my best to clarify the truth and to differentiate the kernel from the shell. I had added much information and examples from the other books.<sup>1</sup>

The first volume was completed on Dhu'l-Qa'da 14,1070/ July 22, 1660, the second in 1077/1666. The reason for this delay in producing the second volume must have been the author's frequent appointments from one post to another and his being unable to settle down in one place permanently.

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1. Ibid., I, 3.

Probably, it was this he meant by saying "daily worries, weariness and other difficulties ..."

He follows the conventional method of commentary, quoting verbatim from his text and explaining the meaning both by grammatical analysis and by citing other works. In addition to Hanafite views, he occasionally refers to those of the three other orthodox schools. But the predominant part is, of course, Hanafite, and in the teachings of this madhhab he is clearly well-versed. Among the other works he mentions are:

al-Mabsūt fi'l-Furū', by Muḥammad b. Aḥmad b. Abī Sahl  
al-Sarakhsī (d. 483/1090)

Ghāyat al-Bayān, by Amīr Kātib b. Amīr 'Uthmān b. Amīr  
Ghāzī al-Itqānī (d. 758/1357)

al-'Ināya, by Akmal al-Dīn M. b. Maḥmūd al-Bābartī,  
(d. 786/1384)

al-Kifāya, by Nūr al-Dīn b. Maḥmūd al-Ṣābūnī al-Bukhārī  
(d. 580/1184)

al-Dirāya fī Takhrīj Aḥādīth al-Hidāya, by Ibn Ḥajar Shihāb  
al-Dīn al-'Asqalānī (d. 852/1449)

Fath al-Qadīr, by M. b. 'Abd al-Wāḥid b. al-Humām (d. 861/  
1457)

al-Baḥr al-Rā'iq, by Zayn al-'Ābidīn b. Ibrāhīm b. Nujaym  
al-Miṣrī (d. 970/1562-63)

Tabyīn al-Ḥaqā'iq, by Fakhr al-Dīn al-Zayla'ī (d. 743/1342)

In addition to these, Akhī Chalabī's Dhakhīrat al-'Uqbā

and commentaries on the Mukhtaṣar of al-Qudūrī, 'Sirāj

al-Wahhāj and al-Mujtabā and many more Hanafite works are cited.



The commentary itself is very well-known throughout the Islamic world and it was one of the main sources which contributed to the compilation of the Majalla-i Ahkām-i 'Adliyya in the nineteenth century.<sup>1</sup>

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1. See Appendix A.

1-al-Murtajā fī Sharḥ al-Multaqā

This commentary was written by a certain al-Fāḍil al-Ṭarsūsī, as appears from the words on folio 3a<sup>1</sup>, in the Ms.<sup>2</sup> There is no information in the sources either about the work or the author.

In 'OM (I, 183), among the commentators of the Multaqā, there is mention of Fayḍ Allāh b. Walī al-Dīn Ṭarsūsī who is said to have died in 1228/1812. If this date is correct, he cannot be the same Ṭarsūsī, since the Ms. was completed in 1082/1671.

The Ms. used here is a work of 320 folios and begins:

بسم الله الرحمن الرحيم الحمد لله الذي نور العالم  
بعلم العلماء وهدى أئزهم بعدل الأمر . . . الخ

In the introduction the author also gives some information about al-Ḥalabī's life.

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1. "وأنا الفقير سميت هذه الشرح بالمرتجى قد كانت شارحة

لمستن الملتقى و هو الفاضل الطرسوسي

2. Süleymaniye, Yozgat, No: 673.

m-al-Durr al-Muntaqā fī Sharḥ al-Multaqā

The author of the commentary is Muḥammad b. 'Alī b. Muḥammad b. 'Alī b. 'Abd al-Raḥmān b. Muḥammad b. Jamāl al-Dīn b. Ḥasan b. Zayn al-'Abidīn known as 'Alā' al-Dīn al-Ḥaṣkafī.<sup>1</sup>

He was born in Damascus about 1025/1616 and received his early education from his father. He then studied under al-Imām Muḥammad al-Maḥāsini who helped him greatly and gave him a general ijāza, eventually making him his assistant for the Bukhārī course in hadīth. Al-Ḥaṣkafī stayed in Damascus until 1062/1651-52, in which year he travelled to Ramla where he studied fiqh under Shaykh al-Ḥanafīyya Khayr al-Dīn al-Ramlī. From there he went to Jerusalem where he attended the lectures of al-Fakhr b. Zakariyyā al-Maqdisī. In 1067/1656 he performed the pilgrimage and while in Madīna he obtained an ijāza from al-Ṣāfi al-Qashshāshī, after having studied under him for two years. In addition to the above mentioned, al-Ḥaṣkafī benefited from many other teachers, among them al-Shaykh Mansūr b. 'Alī al-Suṭūhī and al-Quṭb Ayyūb al-Khalwatī and 'Abd al-Bāqī al-Ḥanbalī.

In the earlier stages of his career he had suffered financial hardships. In 1073/1662, he travelled to Istanbul to meet the vizier Fāḍil Ahmad Pasha, as a result of which he was given a position in the madrassa of al-Chaqmāqiyya. After a short while he applied for the position of muftī of Damascus, which, being granted,

1. The biography presented here is based on Khulāṣa(IV,63pp.)



he held for five years. He was very thorough and careful in forming legal opinions and none of his decisions were ever found to be contrary to the generally accepted principles.

When al-Shams Muḥammad b. Yahyā died, his place as teacher in the Umayyad mosque was given to al-Ḥaṣḥafī, and here his lectures on hadīth began to spread his fame. He used to teach Tanwīr al-Absār at his house, Tafsīr al-Bayḍāwī in the madrasa of al-Taḳwīyya, and al-Bukhārī in the mosque. Many students studied under him, some of whom later became respected scholars, for instance al-Shaykh Ismā'īl b. 'Alī, Darwīsh al-Ḥulwānī, Ismā'īl b. 'Abd al-Bāqī and Shaykh 'Umar b. Muṣṭafā.

While he was teaching in the Umayyad mosque certain envious people sent a report to the government accusing him of being snobbish and extremely proud of himself and these accusations were supported by some fabricated stories. At the same time 'Allāma Abū Bakr b. 'Abd al-Raḥmān al-Kurdī died and his professorship in the madrasa of al-Salīmiyya was given to al-Ḥaṣḥafī on the recommendation of the chief qādī of Damascus. He did not hold this for very long. Again he went to Istanbul where he met Shaykh al-Islām Yahyā al-Minqārī<sup>1</sup> and was given the qadā<sup>1</sup> of Qāra and 'Ajlūn for life as a sinecure, in addition to his position as a teacher of hadīth in Damascus. When Candia was under siege by Aḥmad Pasha, al-Ḥaṣḥafī went there to join him. He had a very warm welcome, and when Candia was captured he was asked to perform the "khutbat al-fath".

1. Yahyā Efendī held this office between 1662-1674.

On this occasion he was granted the qadās of Ḥamā and then of Sidon. Henceforth, his life was spent in teaching and writing until his death in 1088/1677. Ten days before his death he led the Friday prayer and delivered the khutba, in which he said farewell to the people and implied that he was in his last days.

He was well versed in fiqh, grammar and tafsīr. Due to his retentive memory, he held an incredible amount of knowledge, and in fact was said to have more knowledge than intelligence.<sup>1</sup>

His important works are:

- a) Durr al-Mukhtār: A well-known commentary on Tanwīr al-Absār by Muḥammad b. 'Alī Timirtāshī (d. 1004/1595, see GAL, GII, 311; SII, 427).
- b) Khazā'in al-Asrār: Another commentary on the Tanwīr
- c) Ifādat al-Anwār: A commentary on Manār al-Anwār by al-Nasafī (see GAL, GII, 196; SII, 263).
- d) A commentary on Qaṭr al-Nadā on grammar by 'Abdallāh b. Yūsuf b. Hishām al-Naḥwī (d. 761/1360, see GAL, SII, 16).
- e) Ta'liqāt on the Ṣaḥīh al-Bukhārī
- f) Ta'liqāt on Bayḍāwī.
- g) An abridgement of the Fatāwā al-Ṣūfiyya.

The commentary al-Durr al-Muntaqā is one of the most comprehensive commentaries on the Muntaqā. The Ms. used

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1. Khulāṣat al-Athar, IV, 65.



here is in the Süleymaniye Library<sup>1</sup>, a volume of 295 folios, copied by Muṣṭafā b. Ḥasan Turkmānī in 1152. It begins:

بسم الله الرحمن الرحيم الحمد لله مستحق للحمد والصلاة  
والسلام على سيدنا محمد أشرف رسول وأكمل عبد و صلى على  
آله واصحابه ذوي العلا والمجد صلاة وسلاما دائمين ليس لها حد...

after which the author writes:

Certain people who had read the very  
popular book called Multaqa 'l-Abhur asked  
me to write a commentary on it.

He then praises the knowledge of the earlier scholars and  
complains about the state of learning at his time, and  
continues:

I decided to write a detailed commentary,  
illustrating its charming style and showing  
the order of its pearls.

Although the rough copy of the work was finished by 1050/  
1640 he could not complete the final draft until after he  
was dismissed from his post in 1077/1666.

In this commentary, besides quoting from previous  
sources, he often expresses his own personal opinions.  
The work has been published many times in Turkey and in  
Egypt, and also appears in the margin of Majma' al-Anhur.

1. Süleymaniye,



n-Iksīr al-Tuqā fī Tahrīr al-Multaqā

This is a commentary by Ṣun'ullāh b. Ṣun'ullāh al-Ḥalabī, later al-Makkī.<sup>1</sup> We do not have much information about his education and appointments, other than that he was a wā'iz at Mecca for some time, and later held the post of qādī there. He was deeply learned in Islamic sciences generally, but was an expert in ḥadīth.<sup>2</sup>

The work begins<sup>3</sup>:

بسم الله الرحمن الرحيم ومنه العناية وعليه الدراية الحمد لله  
الذي نور بمعارف عوارف هدايته صدر اوليائه وجدر باحكام  
الاحكام موارد من راض ساحرة . . . الخ

After long prayers for the Prophet and his companions, the author says that the Multaqā is a well-known book on fiqh and accepted by everybody for its comprehensiveness. He then explains the reasons for his commentary: "I will display the beauties of its pearls, and uncover its secrets for students. I will also draw aside the veil of its meaning, in which is contained the rules of the Shari'a. I will explain and disclose the hidden knowledge therein." The author then continues with the commentary proper, starting with Kitāb al-Tahāra. The work ends:

. . . و صلى الله على من لا نبي بعده وعلى آله وصحبه تم بالخير في خامس  
من ربيع الثاني بمكة المكرمة سنة واحد وعشرين بعد  
الالف والمائة .

1. GAL, SII, 432.

2. H'A, I, 428.

3. Süleymaniye, Lâleli, No: 1027; 482 ff., 35 lines.

o-Zād al-'Uqbā fī Sharḥ al-Multaqā

The author of this work is 'Abd al-Nāfi' b. Salīm b. Ahmad al-Qirīmī. Although some sources mention his commentary<sup>1</sup>, there is no account of his life. In 'OM the date of his death is given as 1115/1703<sup>2</sup>, but if we accept the date of the composition of the commentary as 1137/1724-5 this must be wrong.

The commentary is a work of two volumes, the first of which is missing. The second volume begins with Kitāb al-Buyū', ends with Kitāb al-Farā'id, in about 375 folios.

There are occasional marginal glosses. Five years were spent in the composition of the work, which was completed in 1137/1627-28, according to the information given at the end. This unique copy was written in 1140/1727-28 by an unnamed scribe.<sup>3</sup>

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1. 'OM, I, 183.

2. Ibid., same page.

3. Beyazıt Kütüphanesi, Veliyyuddin, No: 1244. Second volume, 306-681 ff.

p -Jāmi' al-Shurūh

al-Shaykh Muhammad b.

The author of this commentary is al-Shaykh Ahmad b. al-Shaykh Ibrāhīm b. al-Shaykh Faḍl Allāh. He was born in Nuḥās, a village of Kastamonu, about the middle of the eleventh century A.H. He had his early education in his native town, after which he travelled to Istanbul for further study. The sources tell us nothing of when he entered the profession of the 'ulamā' nor of what appointments he held, apart from the last, which was the professorship of the madrasa of the Shahzāda mosque, and this lasted about three years, beginning from 1117/1705 until his death in 1120/1708. He is reputed to have been deeply learned in fiqh. His father Muḥammad Efendī was also among the learned people of his period and both were members of the Jalwatī order.<sup>1</sup>

His main work is the commentary on the Multaqa 'l-Abḥur, but in addition he compiled a collection of sermons consisting of twelve chapters, each chapter containing five mawā'iz

The manuscript of the commentary used here<sup>2</sup> is an autograph consisting of seven chapters, each of which extends to about one hundred folios. There are also marginal glosses. The work begins:

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1. 'OM, I, 234.

2. Süleymaniye Kütüphanesi, Lâleli, 1019. 676 ff.,  
29 lines.



بسم الله الرحمن الرحيم الحمد لله الذي شيد أركان الدين بقواعد  
آيات كتابه المبين وألزم عباده بأوامره ونواهيه ليكونوا بهـ  
في رعاية الدين المتين وأوضح لهم مجملاتهم ببيان نبيه  
المبعوث الى كافة الخلائق وان كانوا من قبل لفي ضلال  
مبين وأزال بأحاديث الزاهرة المشهر لها بأن هو الآوحي يوحى  
مزال المبتدعين والصلاة والسلام على رسولك ونيبك المبلغ  
آياتك الى عبادك المؤمنين . . . الخ

At the end of the work the author says that he had used  
the original copy of the Multaqa 'l-Abhur for his commentary  
and adds:

تم الكتاب بعون الله الطك الوهاب في يد مؤلفه وشارحه  
الشيخ احمد بن الشيخ محمد المعروف بأعرج بن الشيخ  
ابراهيم بن الشيخ فضل الله النجاسي مولودا والحنفي مذهباً  
والجلوتي طريقاً والحمد لله رب العالمين وصلى الله تعالى  
على سيدنا محمد وآله وصحبه أجمعين وعلى التابعين لهم  
بإحسان الى يوم الدين ربنا لا تزغ قلوبنا بعد ان هديتنا  
وهب لنا من لدنك رحمة انك انت الوهاب . آمين والحمد لله  
رب العالمين

q-Muhtadi 'l-Anhur ilā Multaqa 'l-Abhur<sup>1</sup>

The author of this commentary is Abū Muḥammad Muḥammad Waḥdatī (al-Iksīr) b. Muḥammad al-Uskūbī al-Adirnewī<sup>2</sup>, who was born in Skopje and brought up in Edirne, where he spent his whole life. Besides his deep knowledge of fiqh, he was also a respected poet of his period and one of the khalīfas of the Jalwatī Shaykh Ismā'īl Haqqī Efendī.

Apart from his commentary on the Multaqā he composed a still unpublished Dīvān and a commentary on the Hadīth al-Arba'īn by al-Nawawī. He also translated the Kifāya into Turkish. He died in 1130/1718 in Edirne, where he is buried.<sup>3</sup>

The commentary<sup>4</sup> consists of two volumes and begins with the usual praises of God:

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1. The name of the work is erroneously given in S'O (IV, 605), as Mahd al-Anwār.
  2. This form is given in the commentary in the Süleymaniye Library. In GAL (SII, 643), it is given as "Muḥammad b. Muḥammad Waḥdatī b. Muḥammad Uskūbī, al-Edrenewī"; in 'OM (I, 182) as "Waḥdatī 'Uthmān Efendī", and in H'A (I, 658) as "'Uthmān b. 'Abdallāh al-Adirnewī al-Rūmī".
  3. This is according to GAL and H'A; in 'OM and KZ (II, 1815) the date is given as 1135/1722-23.
  4. The copy used here is in the Süleymaniye, Reisülkuttāb No: 355-356, written in a regular naskh by the author himself. First volume, 566 ff., 45 lines. Second volume, 511 ff., 44 lines.

بسم الله الرحمن الرحيم الحمد لله الذي هدانا لهذا وما كنا لنهتدى  
لولا أن هدانا الله وما توفيقي إلا بالله والصلاة والسلام  
على نبينا محمد الذي يصلي عليه الله وملائكته والمؤمنون . . . الخ

The author says that he entitled the work Muhtadī 'l-Anhur  
ilā Multaqa 'l-Abhur, and that it was intended for his  
beloved son Muḥammad Fayḍī. In the introduction he speaks  
of al-Ḥalabī as having died in 959, but this date must be  
rejected on the evidence of the more reliable sources,  
which place the event in 956/1549. After this short  
introduction the author begins his commentary with Kitāb  
al-Taḥāra.

The commentary is of the usual type, the words of  
the original, where necessary, being explained and then  
their import being interpreted according to the standard  
works of Hanafite fiqh. However, Uskūbī rarely mentions  
these works by their titles, but the sources he used are  
readily identifiable from the tenor of his explanations;  
his work does not exhibit the same appropriateness of  
reference as one finds in the Mawqūfāt and the Majma'  
al-Anhur, both of which are superior in this respect.



r-al-Mu'ādīl

The author of this commentary is 'Abd al-Rahīm b. Abī Bakr al-Mar'ashī<sup>1</sup>, known as Ṣārī Aḥmad Efendī-zāda. He was born in Maraṣ and received his early education there. After completing his studies in Istanbul, at his own request, he was appointed to Maraṣ as the governor (wālī). Sometime later, he became the victim of a conspiracy and was executed in 1149/1736. Apart from this commentary he has other works, among which are:<sup>2</sup>

- a) A commentary on the Durar.
- b) A Turkish commentary on the Qaṣīda al-Munfarija<sup>3</sup>
- c) Commentary on the Qaṣīdat al-Amālī
- d) Khulāṣat al-Hisāb

The Mu'ādīl begins:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ الَّذِي مَنَّ عَلَيْنَا  
بِاحْيَا طَهَارَةِ الْقُلُوبِ . . . الخ

The work was presented to Sultān Aḥmad III, and must thus have been completed before 1730 A.D.<sup>4</sup> The Ms. used here is a work of 220 ff. and was copied by Muḥammad 'Alī al-'Ayntābī in 1151/1738.<sup>5</sup>

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1. See GAL, SII, 643.

2. 'OM, III, 285.

3. By Abu 'l-Faḍl Yūsuf b. Muḥammad b. al-Naḥwī; see GAL, GI, 268.

4. In KZZ (II, 551) the date of its composition is given as 1154/1741; this must be an error.

5. Süleymaniye, Es'ad Efendī, No: 776.

s-Kāshif al-Anhur fī Sharḥ Multaqā 'l-Abḥur<sup>1</sup>

This commentary is the work of Muḥammad b. Yūsuf, who was the imām of the İskender Ağa mosque in İstanbul and died in 1170/1756-57.<sup>2</sup> He is certainly the same Muḥammad Efendī, the "Yayabashī imāmī" recorded in S'O (IV, 242), who also died in 1170 H., and in fact this commentary is ascribed to him under the same title as in KZZ.

However, in 'OM (I, 183) under the list of commentators of the Multaqā there are entries for both a Muḥammad b. Yūsuf (d. 1130) and a Yayabashī Imāmī Muḥammad Efendī (d. 1170). Since both names "Yayabashī" and "İskender" refer to the same mosque<sup>3</sup>, this must be an error. In fact, Ḥusayn al-Ayvānsarāyī joins these two names as Muḥammad Efendī b. Yūsuf.<sup>4</sup>

The work was composed with the intention of clarifying the obscure points of the earlier commentary, Majma' al-Anhur, and to complete the parts which the latter omitted.<sup>5</sup>

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1. The name of the work appears on the title-page of both the Es'ad Ef. and the Serez MSS. as "Kāshif al-Anhār"; in the body of the text itself no title is mentioned. The correct title is the one given above, as it is so recorded in KZZ and S'O, and it has the correct rhyme.
  2. KZZ, II, 551. H. b. İsmā'il al-Ayvānsarāyī, Hadīqat al-Jawāmi', I, 32.
  3. Ibid., 32; "The İskender Ağa mosque, built by Yayabashī..."
  4. Ibid., same page.
  5. Ibid., same page.

The work begins:

بسم الله الرحمن الرحيم الحمد لله رب العالمين والصلاة والسلام  
على سيدنا محمد وعلى آله وأصحابه اجمعين قال الشيخ الامام  
الفاضل تفضله الله بالرحمة والمغفرة والرضوان سلوكا على نهج المتقين  
واقترادا بالكتاب المبين وعملا بسنة رسوله الامين . . . الخ

After giving a long explanation on the meaning of  
بسم الله الرحمن الرحيم, the author then supplies some  
information about al-Ḥalabī's life.<sup>1</sup> He also mentions  
al-Qudūrī (whom he states lived between 363-420 H.),  
al-Mawṣilī (599-683 H.), al-Nasafī (incorrectly shown as  
dying in 681 H.), and al-Marghīnānī (d. 593 H.).<sup>2</sup>

The Es'ad Efendī Ms.<sup>3</sup> is a work of 506 ff. and it  
contains a two-page table showing the distribution of  
inheritance. It was completed in 1164/1750-51 by an  
unknown scribe. The Serez Ms.<sup>4</sup> is incomplete and, both  
in arrangement and style of script, seems a rather  
careless example.

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1. In both MSS. the date of al-Ḥalabī's death is given  
incorrectly; in the Serez Ms. it is given as 959 H.,  
and in the Es'ad Efendī Ms. as 955 H.
  2. Al-Qudūrī, according to the most reliable sources,  
lived between 362-428 H.; and al-Nasafī died in 710 H.
  3. Süleymaniye, Es'ad Efendī, No: 775.
  4. Süleymaniye, Serez, No: 978, 411 ff., incomplete.



t-Sharh al-Multaqā

This commentary, generally known as al-Izmīrī or Sharh al-Izmīrī, was written by Muḥammad b. Walī b. Rasūl al-Qīrshahrī al-Izmīrī<sup>1</sup>, known among the 'ulamā' as "Mir'āt Muḥashshīsi".<sup>2</sup> He was born in Kırşehir where he had his early education, after which he went to Istanbul and there studied under various teachers, among them <sup>a certain</sup> Mīrzā Fādīl. He distinguished himself as a student and, on obtaining his ijāza was invited to a teaching post in Izmir. There, he received great respect for his knowledge, and before long became very popular, being granted the office of muftī of Izmir. He spent the rest of his life in this post and in teaching, and in addition composed many books. Besides tafsīr, kalām and nahw, he was well-versed in fiqh. He died in 1165/1751 and was buried in the "Ulu Mezarlık", in Izmir. His chief works are:

- a) A commentary (incomplete) on Tafsīr al-Baydāwī.
- b) A hāshiya to al-Mir'āt on fiqh. This has been printed several times.
- c) A commentary on al-Ashbāh by Ibn Nujaym.
- d) A commentary on the Risāla of Birgiwī.
- e) Zubdat'Ilm al-Kalām.

In addition to these works he is credited with certain others, mainly on kalām and nahw.<sup>3</sup>

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1. See GAL, SNII, 317, 426.

2. 'OM, II, 239; H'A, II, 328.

3. 'OM, II, 239.

The commentary on the Multaqā is a work of 714 folios.<sup>1</sup>

It begins:

بسم الله الرحمن الرحيم يا واجب الوجود ويا مفيض الخير  
والجود ويا معلي معالم العلم واعلامه ويا مظهر  
شعائر الشريعة واحكامه ويا مرسل الرسل صلوة الله  
تعالى عليهم اجمعين الى سبيل الحق هاديــــــــــــــــن . . . الخ

In the introduction, the author praises al-Sultān al-Ghāzī  
Muṣṭafā Khān b. Muḥammad Khān. The work ends:

... واذا أعطى ذلك الرجل الى القولى دراهم أو دنانير بأن يقول  
خذ لي ربع السنين الطاضية بما ( دور ؟ ) ثم اراد ان يجعلها  
لأصل دينه للوقوف فهل له ذلك اجيبت انه لا يجعلها  
لذلك لأنه ينزع للوقوف .

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1. Süleymaniye, Halet Ef. No: 111. There is another  
copy in Süleymaniye, İzmir, No: 180, the first volume  
of which is missing. Volume II continues the  
foliation from the previous volume, containing  
ff. 393 to 871.

u-Sharh Multaqa 'l-Abhur

This commentary was written by Muḥammad Rushdī b. Maḥmūd b. Muḥammad. After qualifying as a mudarris he became the mollā of Edirne. In Rabī' al-Ākhir 1168/January 1755 he was appointed qādī of Mecca. He died there, but the date of his death is not mentioned in the sources.

The work begins:

بسم الله الرحمن الرحيم الحمد لله رب العالمين و الصلوة والسلام  
على سيدنا و نبينا و رسولنا و شفيعنا محمد و على آله و أصحابه  
اجمعين . . . و بعد فيقول الفقير محمد رشدي . . . الخ

The Ms.<sup>2</sup> used here is an autograph, consisting of 295 folios, and was completed in 1168/1755 in Mecca. The text of the Multaqā is written in red, with the commentary in black ink.

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1. S'O, II, 383.

2. Süleymaniye, Es'ad Ef., No.: 766.



v -Kifāyat al-'Uqūl wa'l-Nuqūl

This is a commentary by Muḥammad Ḥafīdī Efendī, who died about 1170/1756-57. The information about his education and his posts is very limited; however, we know he wrote a commentary on Ādāb-u Birgiwī and composed another two works entitled Hāshiya 'ala 'l-Khayālī and Hāshiya 'ala 'l-Husayniyya.<sup>1</sup>

The commentary on the Multaqā is a work of four volumes.<sup>2</sup> The first, after a short introduction, begins with Kitāb al-Tahāra and ends with Bāb al-Ṣalāt fi 'l-Ka'ba and is of 169 folios. The second volume is 208 folios and consists of the chapters between Kitāb al-Zakāt and Kitāb al-Riḍā'. The third, of 166 folios, begins with Kitāb al-Talāq and ends with Bāb al-Istīlād. The last volume is of 135 folios, starting with Kitāb al-Īmān to the end.

The work begins:

بسم الله الرحمن الرحيم الحمد لله رب العالمين والصلاة والسلام  
على سيد المرسلين وعلى آله وأصحابه اجمعين . . . الخ

At the beginning of the work in a different hand a note is appended to the introduction:

حاشية محمد حفيد علي الملقب ١١٧٩ في المبدأ في شهر ذي القعدة

This may have been written by the author himself since it includes the words:

سميته كفاية العقول والنقول وهو جامع بين الفروع والأصول

1. 'OM, II, 44.

2. Süleymaniye, Reşid Ef. No: 217-220.

In this case the date of the author's death must be later than 1179/1765.

It is also stated in this note that the author depended on the Hidāya, al-Zayla'ī, al-Kāfī and al-'Ināya to a great extent.

w - Dhakhā'ir Ahl al-Tuqā fī Sharḥ al-Multaqā

This work was composed by a certain Ṣāliḥ al-Ḥāl b. Husayn b. Muḥammad al-Ḥalabī. Although nothing is mentioned in the sources about him, he must have died after 1177/1764 since the Ms.<sup>1</sup> is an autograph and was completed in Aleppo in Sha'bān 1177/February 1764, in two volumes, one of 336 and the other of 366 folios.

It begins:

بسم الله الرحمن الرحيم الحد لله الذي بين أحكام الشرع  
المهاب . . . والصلاة والسلام على سيدنا محمد  
وعلى آله وصحبه أجمعين . . . الخ

After a short introduction, there follows the commentary proper, starting, as usual, with Kitāb al-Tahāra.

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1. Dhakhā'ir Ahl al-Tuqā, Cairo National Library,  
No: 22200.



x-Durr al-Bihār wa Kunūz al-Akhyār

The author of this commentary is al-Sayyid Ḥasan b. 'Alī al-Qaysarī, known as Khaṭīb Baṭṭāl. He was born and brought up in Qaysarī (today Kayseri) but the sources do not give any detail of his education and posts. He died in 1181/1767 and he is the author of Samḥat al-Abrār fī Bayān Ghumūd al-Asrār, and a commentary entitled Kashf al-Ishtibāh on al-Ashbāh by Ibn Nujaym.<sup>1</sup>

His commentary<sup>2</sup> on the Multaqā begins:

بسم الله الرحمن الرحيم الحمد لله الذي جعلنا من الفواصين  
ببحر الفقه في الدين والصلاة والسلام على سيدنا محمد . . . الخ

In the short introduction the author says that the Multaqa 'l-Abhur is a very well-written, comprehensive book, rich in information and plain in style. He says he wrote this commentary on the advice of a certain Shaykh Jamāl-zāda. He gives the usual reasons for writing this commentary: "... to disclose its secrets, to explain the obscure points, to point out the neglected parts and to help the reader to understand it by showing the origins of the problems it presents."

The work ends with Kitāb al-Farā'id. There is no mention of the scribe nor the date of writing.

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1. H'A, I, 299.

2. The Ms. used here, a work of 545 ff., is in the Beyazıt Kütüphanesi, Veliyyuddin, No: 1239.

y-Fath al-Bārī

This is a two-volume commentary on the Multaqā, but no information is available in the sources about it or its author, whose name is not mentioned in the body of the work itself. On the title-page, it is given the name Fath al-Bārī. The work<sup>1</sup> begins:

بسم الله الرحمن الرحيم الحمد لله الذي أحكم أحكام الشرع  
الشريف وأعلى ضاره وأعز من بأعبائه وأعلى مقداره و الصلوة  
والسلام على السابق رفعة و الشاهق درجة من  
جميع النبيين محمد نبينا و نبي جميع الخلائق  
من الثقلين و الملائكة المقربين . . . الخ

In the introduction some information about al-Ḥalabī's life is given. The first volume covers the part from Kitāb al-Taḥāra to al-Faṣl fi 'l-Ta'zīr in 315 folios. The second begins with Kitāb al-Sariqa and ends with Hisāb al-Farā'id in 355 folios, but some part at the end is missing. It ends:

و روى أبو نصر العراقي عن أصحابنا أنه ينظر  
ان كان يصلي قاعدا فهو كالصحيح وان كان يصلي . . . .

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1. Fath al-Bārī, Süleymaniye, Halet Efendī, No: 110.

z-Muntaha 'l-Abhur fī Sharḥ Multaqā 'l-Abhur

The author of this commentary is Nūḥ b. Khalīl b. Salīm, of whom no mention is made in the sources. However, in the commentary, it is stated that he was the muftī of Diyarbakır during the composition of the work.

. The commentary begins:

بسم الله الرحمن الرحيم الحمد لله في البداية والنهاية على ما ألهمنا الهداية  
وفهمنا الدراية فيما ينبغي عن الضلالة . . . الخ

The author then gives the reasons for writing this work. He says: "There is no doubt that the Multaqā is a well-known book among the learned people. I wanted to explain what is obscure and clarify the meaning by giving examples ..."<sup>1</sup>

There are marginal notes from al-Mu'ādil<sup>2</sup>, Mukhtārāt al-Nawāzil<sup>3</sup>, Fatāwā al-Sirājiyya<sup>4</sup>, Jāmi' al-Fatāwā<sup>5</sup>, Sirāj al-Wahhāj and from Qūhistānī.<sup>6</sup>

The Ms. used here is in Lâleli, No: 1017. It is a work of 583 ff., written by an unnamed scribe.

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1. Muntaha 'l-Abhur, p. 2.

2. Commentary on the Multaqā by 'Abd al-Raḥīm Mar'ashī.

3. By al-Marghīnānī, the author of the Hidāya.

4. By Sirāj al-Dīn Ṭāhir M. b. M. b. 'Abd al-Rashīd; see GAL, SI, 650.

5. By Nāṣir al-Dīn Abū al-Qāsim al-Samarqandī.

6. Jāmi' al-Rumūz by Shams al-Dīn al-Qūhistānī.



Other Commentaries

a. Sharḥ al-Multaqā

A commentary written by Sulaymān b. 'Alī al-Qaramānī, who was well-versed in fiqh and died in 924/1518.<sup>1</sup> His other works include marginalia on the Wiqāya; a commentary on the Majma' al-Baḥrayn; a risāla entitled Samt al-Qibla.<sup>2</sup>

b. Sharḥ Multaqa 'l-Abḥur

This is one of the earliest commentaries on the Multaqā and was written by 'Alī al-Ḥalabī, who was among the students of Ibrāhīm al-Ḥalabī. The author died in 967/1569. The commentary is mentioned in some sources, but no copy of it has been located.<sup>3</sup>

c. Sharḥ Multaqa 'l-Abḥur

The author of this incomplete commentary is Najm al-Dīn Muḥammad b. Muḥammad b. Rajab al-Bahnasī, who was the imām and mudarris of the Umayyad mosque in Damascus. He died there in 986/1578.<sup>4</sup>

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1. The date of this work, if correct, is interesting, for it is the year after the appearance of the Multaqā.

2. 'OM, I, 323.

3. KZ, II, 1814.

4. Shadharāt al-Dhahab, IX, 410. In KZ (II, 1814) the date is given as 987 A.H.

d. Sharḥ al-Multaqā

The author of this commentary is Muḥammad Efendī, known as Bostān-zāda, who was born in 942/1535-6. After obtaining his mulāzamat and holding various teaching appointments, he entered the judicial branch. He held the office of qādī in Damascus, Bursa, Edirne and Istanbul respectively, then became the qādī 'askar of Anatolia and later of Rumelia. He died in 1006/1598<sup>1</sup> while he was Shaykh al-Islām. In addition to this commentary he translated al-Ghazālī's Iḥyā' into Turkish and wrote poems in Arabic, Persian and Turkish.<sup>2</sup>

e. Sharḥ Multaqa 'l-Abḥur

This commentary was written by Muḥammad b. Muṣṭafā, known as al-'Īshī ( العيشي ), who was the mudarris of the madrassa of Ibn Malāk in Tīre ( تيره ). Besides this work he has other compilations in fiqh and tafsīr. He died in 1016/1607.<sup>3</sup>

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1. The verse

درس علمك بوزلدی بستانی

yields the date.

2. Ḥajjī Khalīfa, Mīzān al-Ḥaqq, tran. G.B. Lewis, The Balance of Truth, pp. 60, 62; Ibrāhīm Efendī, 'Ilmiyya Sālnāmāsi, p. 410; S'O, IV, 133; 'OM, I, 256.

3. See H'A, II, 267.

f. Sabk al-Anhur fī Farā'id Multaqa 'l-Abhur

The author of this commentary is 'Alī b. Muḥammad 'Alā' al-Dīn b. Nāṣir al-Dīn al-Ṭarābulusī, who was the imām of the Salīmiyya mosque in Damascus and died in 1032/1622-23.<sup>1</sup> What may be a copy of this work is in the Khālidiyya Library, Jerusalem (25, 139).<sup>2</sup>

g. Muntaha 'l-Anhur fī Sharḥ Multaqa 'l-Abhur

The author of this commentary is Shāh Muḥammad b. Aḥmad b. Abī al-Su'ūd, a scholar deeply versed in fiqh, tafsīr and nahw. He finished the composition of this work in 1052/1642,<sup>3</sup> and the same date is given in 'OM (I, 336) as the year of his death in Monastir. An autograph copy of the work is in the Monastir library.

h. Sharḥ Multaqa 'l-Abhur

This work is the composition of Muḥammad Ṣāliḥ b. 'Abdallāh al-Madanī known as Qādī-zāda, died in 1087/1676.<sup>4</sup>

i. Sharḥ al-Multaqā

The author of this work is Muṣṭafā b. ( ? ) al-'Ushāqī, who was a mudarris in various madrasas and died in 1101/1689-90.<sup>5</sup>

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1. Khulāṣat al-Athar, III, 186; Tarājim al-A'yān, II, 333.

2. GAL, SII, 643.

3. KZ, II, 1815.

4. Ibid., II, 1816; H'A, II, 295.

5. H'A, II, 442.



j. al-Murtadā fī Sharḥ al-Multaqā

The author is Murtadā b. Ḥusayn b. 'Uthmān, who was born in Edirne where he received his early education. He then travelled to Istanbul and studied there under various teachers. After qualifying as a mudarris and holding some teaching appointments, he became the qādī of such cities as Filibe (Plovdiv) and Medina. He died in 1105/1693-4<sup>1</sup>

k. Sharḥ al-Multaqā

The commentator, Qāsim b. Sulaymān, was born in Niğde ( نیکره ) and after obtaining his mulāzama he held the post of mudarris in Sīrōz ( سیروس ). He also wrote a commentary on Wiqāyat al-Riwāya by Burhān al-Sharī'a.<sup>2</sup> He died in 970/1562-3.

l. Sharḥ al-Multaqā

This commentary was written by Ḥāfiẓ al-Dīn al-Nāblusī who was born in Nāblus and after completing his education became muftī there. He died towards the end of 1107/1696.<sup>3</sup>

m. Nūr al-Tuqā fī Sharḥ al-Multaqā

This commentary was written by 'Alī b. Sharaf al-Dīn al-Shaykh 'Abd al-Bāqī b. Shaykh Aḥmad, known as al-Ẓarīfī. He completed the composition of the work in Muḥarram 1108/1696.<sup>4</sup>

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1. 'UZ, pp. 674-5.

2. H'A, I, 832.

3. Silk al-Durar, II, 10.

4. KZ, II, 1816.

n. al-Muwaddah

The author of this work is Sulaymān Efendī, known as the muftī of Gelibolu. He was well-versed in fiqh and died in 1110/1698-9. A copy of this commentary is in Ayasofya Library in Istanbul.<sup>1</sup>

o. Safīnat al-Bihār

The author of this commentary is Sayyid Ṭāhir b. Sayyid al-Ruhāwī, who was born in Urfa and died sometime after 1122/1710.<sup>2</sup> Two copies of the work are in the Istanbul libraries.<sup>3</sup>

p. Sharḥ al-Multaqā

This two-volume commentary was composed by Akmal al-Dīn Yūsuf b. Ibrāhīm b. Muḥammad al-Shirwānī. He held the office of qādī in Madīna, where he died in 1134/1721-22. He wrote another work on hadīth and produced risālas on various subjects.<sup>4</sup>

q. Sharḥ al-Multaqā

This is an incomplete commentary by Ismā'īl Ḥaqqī al-Burūsawī (Bursa), who produced more than a hundred works on various subjects. He died in 1137/1724-25.<sup>5</sup>

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1. 'OM, I, 325.

2. 'OM, III, 83.

3. One copy is in Beşiktaş Yahya Ef. Dergâhı Library, another one is in Nūr Osmaniye Library.

4. H'A, II, 568; Silk al-Durar, IV, 239.

5. For his works see 'OM, I, 28.

r. Sharḥ al-Multaqā

Another commentary on the Multaqā by a certain Qushaqchi-zāda Muḥammad al-Burūsawī who died in 1152/1739.<sup>1</sup>

s. Sharḥ al-Multaqā

The author is Ḥāfiẓ Muṣṭafā b. Muḥammad, who died in 1168/1754-55.<sup>2</sup> The work has not been located.

t. Sharḥ al-Multaqā

This commentary has not been located. It is said to have been written by Khātam Aḥmad Efendī, known as Aqovali-zāda, who died in 1168/1754-55.<sup>3</sup>

u. al-Mirwaha ( المروحة ) fī Sharḥ al-Multaqā

This commentary was written by Muṣṭafā b. Muḥammad, known as Sū ichmez (Su içmez) Muṣṭafā Efendī. He was born in Kayserī and after completing his education he took up teaching as a mudarris in various madrasas until his death in 1170/1756-57.<sup>4</sup>

v. Muntaha 'l-Anhur fī Sharḥ Multaqa 'l-Abhur

A commentary by Ḥusayn Sunbul-zāda, completed in 1180/1766.<sup>5</sup> It is a work of two volumes, each of which

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1. 'OM, I, 183.

2. 'OM, I, 183.

3. 'OM, II, 166.

4. H'A, II, 451.

5. See GAL, SII, 643m (where the name is given as Sandal-zāda). Die Arabischen Handschriften der Hof-und Staatsbibliothek in München, p. 107.



consists of 320 folios.<sup>1</sup>

w. Sharḥ al-Multaqā

The commentator is Fayḍallāh b. Walī al-Dīn al-Ṭarsūsī, who held the office of qādī in Dabra (دبره) and died in 1222/1807.<sup>2</sup>

x. Intikhāb al-Fuqahā<sup>3</sup>

This four-volume commentary was written by Muṣṭafā b. Muḥammad, known as Kātib Muṣṭafā Efendī, who was born and brought up in Antep (عينتاب). Apart from this work, he collected the fatāwā of Shaykh al-Islām 'Abd al-Raḥīm Efendī (d. 1129/1716) and wrote a risāla on jihād.<sup>4</sup> He died in 1279/1862.

y. Sharḥ al-Multaqā

The author of the work is Ghawwās Efendī, who was born in Söke (سوكه). The date of his death is not recorded.<sup>5</sup>

z. Sharḥ Multaqa 'l-Abḥur

This commentary was written by a certain Ismā'īl Efendī al-Kaydānī and a copy exists in the Mosul Library (62, 188).<sup>6</sup> Since Brockelmann (GAL, SIII, 1304) adds

1. Ibid., same page.

2. H'A, I, 824; in 'OM (I, 183) the date is given as 1228 A.H.

3. The title yields the date of composition, 1272.

4. 'OM, II, 9.

5. 'OM, I, 390.

6. See GAL, SII, 643.

"al-Sīwāsī" to the author's name, this work may be identical with the commentary by Ismā'īl b. Sinān (see p. 225 ) who was born and brought up in Sivas.

aa. Murtajā Ahl al-Tuqā fī Sharḥ al-Multaqā

The author of this three-volume commentary is not known and his name is not mentioned in the text itself.<sup>1</sup>

It begins:

بسم الله الرحمن الرحيم الحمد لله الذي شرح صدورنا بأنوار اليقين  
ونور قلوبنا بمعرفة علم فقه والدين . . . الخ

bb. Fayḍ al-Anhur Sharḥ Manāsik Multaqa 'l-Abḥur

This commentary was written by a certain Shaykh Muhammad.<sup>2</sup>

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1. KZZ, II, 551.

2. GAL, SII, p.643 .

## CHAPTER VII

### THE MULTAQĀ IN LEGAL SCHOLARSHIP



A.      The Contribution of the Multaqā to the  
          Compilation of the Majalla

The 19th century-Ottoman Empire witnessed several political, social and military reforms, amongst which legal reforms occupied much attention. Early in the century various attempts were made to change the structure of the courts or to introduce new legal systems, but none of these were really successful. There remained a growing need in the Empire for a new codex to solve disputes concerning trade between Muslims and non-Muslims. Such cases needed to be heard in special commercial courts since non-Muslims could not appear on equal terms with Muslims before shar'ī courts, but the judges in commercial courts did not have a comprehensive knowledge of fiqh, and so it was agreed "to have that part of fiqh that had reference to commercial transactions translated into a language which could be understood by all and to make it into a codex."<sup>1</sup>

The first committee failed to complete the work which was to be called Matn-i Matīn and was ultimately dissolved. The reason for this failure was that most of the members of the committee were not themselves thoroughly versed in fiqh.<sup>2</sup>

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1.    A. Cevdet Paşa, Tezâkir, I, 62, translated in Ş.A. Mardin, "Some Explanatory notes on the Origins of the 'Mecelle'", (in the MW, LI, 1961, pp. 189-196 and 274-279) p. 275.
  2.    See Tezâkir, I, 63.

Meanwhile there appeared a movement to adopt the French Civil Code in the Empire, but an opposition group led by Ahmad Jawdat Pasha<sup>1</sup> desired that the shar'ī provisions which were in harmony with the demands of the times should be made into a compendium and used as shar'ī law in disputes involving Muslims and as qānūn (i.e. secular law) in those involving non-Muslims. At the end of a series of discussions a seven-member commission under the chairmanship of Jawdat Pasha was requested to compile a codex using the basic Hanafite texts. The introduction and the first chapter of the new codex, entitled Majalla-i Ahkām-i 'Adliyya, were completed in 1869, and the last chapter was concluded in 1876.

Although Jawdat Pasha was the head of the commission and expended much effort for its success, the role of his other colleagues<sup>2</sup> should be mentioned. All of these were highly educated and deeply learned in fiqh and other Islamic sciences. Their aim was to produce "an easily understandable work on the practical aspects of the sharī'a in relation to transactions amongst individuals, containing only agreed opinions and free of matters of dispute which could be used by everyone as a guide to his own conduct of

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1. On him see E. Mardin, Medenî Hukuk Cephesinden Ahmet Cevdet Paşa, Istanbul, 1946.
  2. For the names of other members of the committee see E. Mardin, op. cit.



affairs and which would benefit the members of the courts and government officials."<sup>1</sup> Another point was that modern conditions of manufacture, industrial organisation and the customs prevailing in society had to be taken into consideration by the committee in selecting the most suitable views of the Hanafite lawyers with reference to current affairs and practicability.

The Majalla was derived completely from Hanafite sources and in its compilation the Multaqā and its commentaries, Majma' al-Anhur and the Mirwaha were used extensively. The contribution of the Multaqā may be seen in every chapter, and many of the definitions are directly derived from it. About 270<sup>2</sup> articles were taken from the Multaqā and Majma' al-Anhur and another 80 were also partly derived from them. As shown in the table (p.339), the Multaqā and the Majma' al-Anhur contributed the largest proportion, more than 17%, and they are followed by Fatāwāy-i Hindiyya and Durr al-Mukhtār contributing 10 and 8% respectively. This fact demonstrates beyond any doubt the importance of the Multaqā and its place in the

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1. See "Majalla Madbatası", quoted in Mas'ūd Efendī al-Qaysarī, Mir'āt-u Majallai Ahkām-ı 'Adliyya (Istanbul, 1302 A.H.), p. 4.

2. This number includes a mere handful of articles from Durr al-Muntaqā and al-Mirwaha.



Ottoman Empire.<sup>1</sup> The main reason for this extensive borrowing would seem to be that the concise style of the Multaqā was very appropriate for such a compilation. It was possible in many cases where it is quoted to take an article and translate it into Turkish as it stood.<sup>2</sup> In some cases, naturally, the information had to be modified slightly, expanded or shortened in the process of establishing a principle in Turkish.<sup>3</sup>

Since the Multaqā had itself been derived from six basic Hanafite texts and was entirely reliable, it was sufficient to consult it on many matters without the necessity of going through its sources. Indeed this point emerges clearly from Mir'āt-ī Majalla (see p.338) as the sources of the Multaqā were used rarely.

The most frequently occurring is the Hidāya, which contributed only about 1% of the contents of the Majalla. Others, the Majma' al-Anhur, the Mukhtār, the Kanz and the Mukhtaṣar are mentioned only a few times.

Moreover, under the system of education in that period, every member of the commission had probably

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1. This information is based on Mir'āt-ī Majalla, a study of the sources of the Majalla by a former muftī of Kayseri, Mas'ūd Efendī. This work was printed in 1302/1884-85, i.e. within nine years of the promulgation of the Majalla, and appears to be a most reliable source.
  2. For examples see articles 167, 673, 837 etc.
  3. See articles 169, 497, 706, 1000 etc.

studied the Multaqā; and some of them being teachers in the madrasas, were most probably using it in their classes.<sup>1</sup> Jawdat Pasha in his Tezâkir mentions the Multaqā as one of the basic books he studied in fiqh<sup>2</sup> and most presumably it was the foundation for his knowledge in this field. Professor Mardin, in his comments on the education and career of Jawdat Pasha, says that the latter was always encouraged and advised by his grandfather to join the 'ilmiyya. He then states that Jawdat Pasha studied fiqh books such as Halabî<sup>3</sup> and the Multaqā and comments: "The Multaqā is a 'solid text' (matn-i matîn) which deals with all cases of fiqh."<sup>4</sup> The widespread use of this text throughout the Empire ensured that the Majalla would not seem too innovative and unfamiliar to jurists working outside or at a distance from the capital.

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1. For the use of the Multaqā in madrasas, see pp. 289-296.

2. A. Cevdet Paşa, Tezâkir, IV, 4-5.

3. I.e. al-Halabî's Ghunyat al-Mutamallî, which is usually referred to by this title.

4. E. Mardin, op. cit., p. 12.

To illustrate the manner in which the Multaqā was incorporated into the Majalla, the following examples may be cited:

I. Kitāb al-Buyū'

Article 167: ايجاب و قبول ايله بيع "منعقد اولور

"A sale is constituted by an offer and an acceptance."

ينعقد ( العقد ) بايجاب و قبول

Multaqā, Kitāb al-Buyū', p. 107.

Article 169:

ايجاب و قبول ايجون اكثريا ماضي صيفه مي استعمال اولنور

"The past tense is generally used for the offer and acceptance."

و ينعقد. بايجاب و قبول بلفظي الماضي كيمت و اشترت

Multaqā, Kitāb al-Buyū', p. 107.

Article 268:

اوزنده ميوه اولان اغاجك تسليمنده ميوه سني

دو شيرب اغاجي تخليه ايتكه بايع مجبر اولور

"A seller is compelled to clear a tree by picking its fruit, at the time of delivery of the tree, having fruit upon it."

ولا يدخل الثمر في بيع الشجر الا باشرطه وان ذكر

الحقوق والمرافق ويقال للبائع اقمه واقطعها و سلم البيع...

Multaqā, Kitāb al-Buyū', pp. 108-109.



## II- Kitāb al-Ijāra

### Article 497:

بيعه اولدينى كى اجاره ده دخى خيار شرط جارى اوله رق احـ  
طرفين ياخود ايكيى بردن نيو قدر كون مخير اولمق  
اوزه ايجار واستيجار جائز اولم

"As in a contract of sale, so in a contract of hiring, a stipulation giving an option is permitted; and a letting and hiring, on the condition that one of the parties or both should have an option for so many days, is allowed."

"ويثبت فيها ( اى الا جارة ) خيار الشرط والرؤية و الغيب "

Multaqā, Kitāb al-Ijāra, p. 161.

## III. Kitāb al-Kafāla

كفالتده اصيك برى اولمى شرط Article 648:

قنم ايسه حواله يه منقلب اولمور

If in a guarantee, the principal debtor is granted immunity, (the debt) is then transferred to the guarantor [i.e. the kafāla contract becomes hawāla.]

و للطالب مطالبة اى ثا من كفيله واصله الا اذا شرط

برا ة الاصيل فتكون حواله . . .

Multaqā, Kitāb al-Kafāla, p. 123.

#### IV. Kitāb al-Ḥawāla

##### Article 673:

حواله دَينِي بر زمتدن ديكر زمتنه نقل ايتكدر

"Ḥawāla is to make a transfer of a debt from one debtor account to the debtor account of another."

هي ( الحوالة ) نقل الدين من زمة الى زمة

Multaqā, Kitāb al-Ḥawāla, p. 127.

#### V. Kitāb al-Rahn

##### Article 706:

راهن ومرتھنك ايجاب وقبولي ايله رهن منعقد اولور  
فقط قبض بولسند قبه تمام ولازم اولمز بنا عليه  
راهن قبل التسليم رهنندن رجوع ايده بيلور

"The pledge becomes a concluded contract by the offer and acceptance of the pledger and pledgee. But until it is received, it is not complete and irrevocable. Therefore the pledger, before delivery can renounce the pledging.

( الرهن ) منعقد بايجاب و قبول و يتم بالقبض . . .  
وللراهن ان يرجع عنه قبل القبض فاذا قبض لزم . . .

Multaqā, Kitāb al-Rahn, pp. 197-98.

## VII. Kitāb al-Hiba

### Article 837:

هبة ايجاب و قبول ايله منعقد و قبض ايله تمام اولور

"A gift (hiba) becomes a valid contract by offer and acceptance, and is completed by receipt."

و تصح ( الهبة ) بايجاب و قبول و تتم بالقبض

Multaqā, Kitāb al-Hiba, p. 158.

## VI. Kitāb al-Wadī'a

### Article 763:

وديعه حفظ ايجون بر كيمه يه ايداع اولتان مالدر

Wadī'a is property left with someone for safekeeping.

الوديعة ما يترك عند الامين للحفظ و هي امانة

Multaqā, Kitāb al-Wadī'a, p. 156.

## IX-Kitāb al-Hajr wa'l-Ikrāh wa'l-Shuf'a

### Article 1000:

مديون مظلوك مدت مجبورينده كرك كندو و كرك اوزرنه

نفقه سي لازم اولان كسسه لر كندونك مالندن انفاق اولور

During the time when an insolvent debtor is under prohibition both himself and those whose maintenance is supplied by him, are supported out of his property.

وينفق من مال الخلس عليه و على من تلزمه نفقته

Multaqā, Kitāb al-Hajr, p. 172.



X-Kitāb al-Sharika

Article 1338:

سرمایه نك نقود قیلندن اولسی شرطدر .

It is a condition that the capital be some kind of silver or gold money.

ولا تصح مفاوضة ولا عتاق الا بالدرهم او الدينار

Multaqā, Kitāb al-Sharika, p. 104.

XI-Kitāb al-Wakāla

Article 1528:

موكل وفاتيله وكيل دخلى منعزل اولور

By the death of the principal, wakīl of the wakīl is also discharged.

فان اذن فوكل كان الثاني وكيل الموكل الاول لا الثاني فلا ينمزل  
بمزله ولا بمونه وينمزلان بموت الاول (الوكيل) .

Multaqā, Kitāb al-Wakāla, p. 140.

XIII. Kitāb al-Iqrār

Article

ديون صحت ديون مرض اوزرينه مقدمدر يعنى تركهسى غريم  
اولان كيمه نك حال صحتده زمته تعلق اذن ديونى مرض  
مننده كى اقراريله زمته تعلق ايدن ديونى اوزرينه نقد يم قنور

"Debts contracted in health take priority over debts contracted in sickness.

That is to say, the debts of a person, whose estate (tarikā) is in debt, which attach to his debt while in a

state of health, are made to take precedence over his debts which attach to his debit by virtue of admission made while in a state of mortal sickness.

دين صحته وما لزمه في مرضه بسبب عروف  
— ويقدمان على ما أقر به في مرضه  
والك مقدم على الارث .

Multaqā, Kitāb al-Iqrār, p. 149.

#### XIV. Kitāb al-Da'wā

##### Article 1623:

مدعا به عقر ايسه حين دعوى و شهادته بلده و قريسي  
ويا محله و زقاق و حدود اربعه سي ياخود ثلثه سي  
وحدودينك صاحبلى وار ايسه آنلرك و بابا و ده ده لرينك  
اسطرى ذكر اولنمق لازمدر .

"If the subject matter of the action is immovable property it is necessary at the time of the claim, or when evidence is given, that its town or village, or quarter and street and its four or three boundaries, and if there are owners on the boundaries their names and those of their fathers and grandfathers be stated."<sup>1</sup>

ولا بد فيه ( في العقر ) من ذكر البلد والمحلة والحدود الاربعه  
في الدعوى والشهادة واسطه اصحابها ونسبهم الى الجد .

Multaqā, Kitāb al-Da'wā, p. 142.

1. This is the first part of the article 1623; the second part is based on the information borrowed from Durar-u Ghurar.

XV-Kitāb al-Bayyināt wa'l -Tahlīf

Article 1762:

زيادة بينه سي اولدر مثلا بايع و منترى ثمنك  
يا مبيعك مقدارنده اختلاف اينسهر زياده دعوى  
ايدنه نك بينه سي ترجيح اولنهر .

"The evidence of the greater is preferred. For example, when the seller and buyer differ about the amount of the price of a thing sold, the evidence of the claim for the greater is preferred."

ولو اختلافنا في قدر الثمن او المبيع او فيهما حكم لمن  
برهن وان برهننا فثبت الزيادة .

Multaqā, Kitāb al-Bayyināt wa Tahlīf, p. 143.

XVI. Kitāb al-Qadā'

Article 1795:

حاكم مجلس محاكمه ده آليش ويريشن و ملاطفه كبي مهابت  
مجلسي ازاله ايدنه جك افعال و حرڪاندن اجتناب ايتلدر .

"The judge must abstain from all actions and deeds which will destroy the majesty of the court, like buying and selling and joking during the sitting of the court."

ولا يبيع ( الحاكم ) ولا يشتري في مجلسه ولا يمازح

Multaqā, Kitāb al-Qadā', p. 128.



B. The Multaqā as a Text-Book in the Madrasas

The Ottoman madrasa system had fully evolved when the Multaqā was compiled by Ibrāhīm al-Ḥalabī. The greater part of the energy expended within these scholarly establishments was devoted to the study of the Qur'anic sciences and their various branches. Of these fiqh was to be of particular importance, for the madrasa was the training ground for two careers in particular, that of the jurist and that of the teacher, and the study of fiqh was the basic occupational training for the legal career. It was divided into two separate disciplines, uṣūl and furū'; the bases or principles of law were termed the uṣūl al-fiqh<sup>1</sup> and the disciplines derived therefrom, the furū'.

As the greater majority of the population in the Ottoman state was Hanafite, the text-books of this rite served as main reference books in the madrasas. In the provinces, where there were large numbers of non-Hanafites, the text-books of other rites were also used for the same purpose. In Iraq, for example, besides Hanafite works, Shafiite works were also used, such as the Matn al-Ghāya wa'l-Taqrīb<sup>2</sup> and

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1. The science of uṣūl al-fiqh has been defined by the doctors as "the science of the principles whereby one reaches fiqh in the true way." See N.P. Agnides, op. cit., p. 4.
  2. By 'Alī b. al-Ḥusayn b. 'Alī al-Iṣfahānī Abū Shujā' Tāj al-Dīn (d. 593/1196), see GAL, GI, 392.

a commentary on the same work by al-Kātib al-Shirbīnī (d. 977/1569), alongside another commentary by Ibn Qāsim al-Qazzī (d. 918/1512), and its supercommentary by Ibrāhīm al-Birmāwī (d. 1106/1694).<sup>1</sup>

Although in a broad sense the mudarris was free to teach the text-book of his choice, sometimes these texts had already been prescribed by the founder of the waqf or its mutawallī and the teacher was restricted in his choice of text, which were often provided for the use of the instructor.<sup>2</sup> Indeed in some cases text-books were prescribed by the Sultān, most probably with the aim of maintaining some uniformity in legal training throughout the state. An imperial decree issued in the sixteenth century gives the list of text-books given to the teachers, to be used in the madrasas.<sup>3</sup> Naturally the law books named in the list are entirely Hanafite works such as the Hidāya, the Nihāya, the Ghāyat al-Bayān, the Qādīkhān, etc.

In the early period, the most popular books which were taught in the madrasas were the Hidāya, the Wiqāya and the Mukhtasar of al-Qudūrī.<sup>4</sup> Uzunçarşılı also includes the Kanz al-Daqa'iq.<sup>5</sup> These four main works, which were used

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1. 'A. al-Hilālī, Tārīkh al-Ta'līm fi'l-'Irāq fi'l-'Ahd al-'Uthmānī (Baghdād, 1959), p. 99.
  2. M. Bilge, İlk Devir Osmanlı Medreseleri (unpublished Ph.D. Thesis, Istanbul Edebiyat Fak.), 1974, pp. 98-99.
  3. Ibid., p. 78.
  4. Ibid., same page.
  5. See Uzunçarşılı, Osmanlı Devletinin İlmiye Teşkilâtı, p.4.



as sources for the compilation of the Multaqā, were to be rendered largely redundant in practice by its adoption as a basic text-book of Hanafite law.

While it is quite true that the Multaqā was to supplant the preceding generation of legal text-books, this process was necessarily a slow one, the conservative nature of the madrasa not being conducive to the acceptance of new works for a number of reasons. Foremost among these is the fact that the curriculum in many institutions was prescribed for posterity by the founder, a fact which necessitated the retention of the old works. Secondly, it must be remembered that the madrasa was extremely conservative in its attitude to the prescribed curriculum and it was virtually impossible to dislodge a text from the syllabus within a short period of time.

Teachers generally tended to teach those texts they themselves had studied. It would seem probable that the introduction of a new work into the syllabus could be accomplished only when the text had been taught to sufficient students to create a corps of teachers who would, in their turn, teach it as a text. Thus it can be seen that a text would require several generations before it could gain a dominant position and even then it would not be to the complete exclusion of the older texts.

However, despite all these obstacles to its adoption as the standard work of Hanafite legal practice, one can maintain categorically that by the seventeenth century the Multaqā had gained widespread recognition.



In one of the earliest European sources to describe the Ottoman educational system, Toderini makes mention of the work:

Il en parut un autre plus étendu plus complet sous le Sultan Soliman Ier. Ce code fut compilé avec beaucoup de méthode par Ibrahim d'Alep, nommé Moltaki Alabhar, ou la réunion de mers, pour avoir rassemblé tout ce qu'avoient écrit Coduré, Mokhtar, Vakaiat, Hadaiah, habiles jurisconsultes.<sup>1</sup>

Hajjī Khalīfa, one of the prominent figures of the seventeenth century, whilst giving the account of his career as a teacher, points out the place of the Multaqā among the other text-books in the madrasas and states:

... meanwhile my pupils had been having lessons on the elements of accidence, Fanārī and the Shamsiyya on logic, Jāmī, the Mukhtaṣar, the Farā'id, the Multaqā and the Durar.<sup>2</sup>

Al-Hilālī notes the constant use of the Multaqā in Iraqi madrasas during the Ottoman period, a fact which indicates the recognition given to the work not only in the madrasas of the Capital but also in those of more

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1. L. Toderini, Letterature Turchesca, tr. into French by Courrand (Paris, 1789), I, 41.
  2. Hājji Khalīfa, Mīzān al-Ḥaqq, Eng. trans. G.L. Lewis, The Balance of Truth, (London, 1957), p. 141.

distant provinces.<sup>1</sup>

The Multaqā was to become the standard text-book throughout the Empire before the beginning of the nineteenth century. The author of the Qāmūs al-A'lām was to note:

The work of al-Ḥalabī contains the whole of the knowledge of the science of fiqh in an easy and fluent style; and in our present time it is accepted as a text-book throughout the Ottoman state and is found currently in the hands of the students.<sup>2</sup>

Lybyer in the chapter on Ottoman legislation states:

Mouradgea D'Ohsson took the Multaqā as the basis of his excellent work Tableau général de l'Empire Othoman and gave the translation of it with its comments to which he has added observations of great value, based on historical studies on his investigations during many years' residence in Turkey.<sup>3</sup>

In his account of the madrasas and their curriculum D'Ohsson names the chief text-books and gives priority to the Multaqā in the branch of jurisprudence: "On étudie la jurisprudence dans Multaka, Durer, Tewzihh, Telwihh etc."<sup>4</sup>

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1. Al-Hilālī, op. cit., p. 99.

2. S. Sāmī, Qāmūs al-A'lām, I, 568.

3. Lybyer, op. cit., p. 153.

4. D'Ohsson, op. cit., II, 469.

The late Professor P.K. Hitti emphasises the role of al-Ḥalabī's work in the Ottoman educational system, stating:

Multaqa 'l-Abhur served for centuries as the text of instruction in the Turkish madrasas.<sup>1</sup>

The Multaqā was also one of the main works taught in the Ottoman Palace School<sup>2</sup>, which no doubt reflected the curriculum of the ordinary madrasas in its choice of textbooks.

Finally, it must be added that most of the commentators on the Multaqā were actually teaching it; as can be seen in the chapter on the commentaries on the Multaqā, most of the commentators held the post of mudarris in various parts of the Empire. Some of the commentators actually made it clear that they were teaching the Multaqā. For example the author of Ghawwās al-Bihār, Darwīsh b. Aḥmad al-Rūmī states that he was teaching the Multaqā to his students. (See p.233) The date of his commentary's composition, 1654-55, shows us that the Multaqā had taken its place in <sup>the</sup> madrasa curriculum

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1. P.K. Hitti, History of the Arabs, (London, 1958), p. 714.

It should be noted however that Hitti seems to derive his information mainly from earlier European sources.

2. B. Miller, "The Curriculum of the Palace School of the Turkish Sultans", in The MacDonald Presentation Volume (Princeton, 1933), p. 314.



by this date. Their commentaries seem to be essentially the formal reduction of their teaching notes in the form of a text-book. The very number of such commentaries, which is well over fifty, attests to the extensive use of the Multaqā which began during the lifetime of its author and lasted for almost four centuries.

However, it should be pointed out that while those authors who describe the madrasa system all note the supremacy of the Multaqā, many do note the existence of its predecessors, a fact which would indicate they still held a place on the syllabus.

The Multaqā's influence can also be seen in the popular catechisms of religion ('ilm-i hāl) and compilations of a similar nature. For example a seventeenth century work, known as the Kitāb al-Uṣṭuwānī<sup>1</sup> relies heavily on the Multaqā, a great deal of the text

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1. This is the work of Uṣṭuwānī Muḥammad Efendī (1608-1668) who was a wā'iz in Istanbul. According to him the practices of samā' and raqs of the sufis are unlawful. His attitude towards sufism and their practices is similar to that of al-Ḥalabī. Although he was born half a century after al-Ḥalabī's death he must have been influenced through the latter's writings. His views on certain controversial matters, such as raqs, samā', dawarān, music etc. are given in his above-mentioned work. The Ms. used here is in the possession of the author of this thesis.

being merely al-Ḥalabī's prose translated into Turkish. However, we may also observe a certain amount of reliance on alternative works, such as al-Ḥalabī's commentary on the Munyat al-Muṣallī, the Bahr al-Rā'iq, the Sirāj al-Wahhāj, the Hidāya and its commentaries. At the end of every issue (mas'ala) the source of information is given, as, for example, in the chapter on "Actions which invalidate <sup>some of</sup> prayer", which he enumerates as follows, citing his source:

بده ننده اولان اغريدن ويا مصيبتدن اوترى آه ايدوب اغلماق  
 اما جنتويا جهنم اكدن ايمه ضررايتمز ، ملتقى ده يزار  
 امامنك غيره فتح اتمك ، ملتقى ده يزار  
 نمازك ايجنده ايكن هر مصيبت اشتبه انالله وانا اليه راجعون  
 ديمك ، ملتقى ده و ابراهيم حلبده يزار

While still on the subject of ritual prayers he continues:

جمعه نمازينك فرض اولمسنك التى شرط واردر اولكى شهرده مقبم  
 اولمق ايكنجى ار اولمق اوجنجى صاغ اولمق دردنجى حراولمق  
 بشنجى كوزى صاغ اولمق التنجى ابقلىرى سالم اولمق ملتقى ده يزار  
 نمازى جماعتله قلمق بزم مذهبمзде سنت مؤكده در ملتقى ده يزار  
 هر كمسه طشرده اولسه نماز قلدوغى وقتده اذان اوقمق لازمدر  
 ملتقى ده يزار

C. The Multaqā as a Reference Book for Qādīs

In the Ottoman state all legal cases were resolved in the shar'ī courts according to the principles of the Hanafite rite. Qādīs would therefore refer to the well-known and accepted Hanafite works and fatāwā collections in order to adjudicate the cases presented before them. Although qādīs were free to use any text within the rite, their choice was often circumscribed by the availability, practicability and popularity of the texts. Von Hammer enumerates seven works which were regarded as being classical and canonical: The Mukhtasar of al-Qudūrī, the Hidāya, the Wiqāya, the commentary on the Wiqāya, the Kanz al-Daqā'iq, the Durar al-Hukkām and finally the Multaqā 'l-Abhur.<sup>1</sup> Von Hammer assumed, without providing any supporting evidence, that

al-Ḥalabī was probably asked by Sulaymān to compile such a book, just as, for example, Muḥammad II had asked Mollā Khusraw to compile the Durar al-Hukkām.<sup>2</sup>

This theory has gained wide acceptance by scholars such as, for example, Lybyer, who characterised the Multaqā as:

... a new code of law, therefore better adopted to the more widely Moslem character

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1. Von Hammer, Staatsverfassung, pp. 10-11.

2. Ibid., p. 11.



which the empire had assumed ... Sulaymān charged Sheykh Ibrāhīm Ḥalabī with the task of preparing such a code.<sup>1</sup>

In another chapter he again repeats this assumption:

Before 1549 Ibrāhīm Ḥalabī, the jurist, prepared by command of Sulaymān the codification of the sacred law which bears the name of Multaka al-Ebhar.<sup>2</sup>

Meron (L'Obligation alimentaire ... pp. 64, 65) quoting Hitti, also asserts that Ibrāhīm al-Ḥalabī was charged by the Ottoman sultan Sulayman the Magnificent with compiling the Multaqā 'l-Abhur. However, al-Ḥalabī makes no mention of such a commission by the government in his introduction. Furthermore, the Multaqā, according to the account given in the manuscripts, was completed on 23rd Rajab 923/11th September 1517, and Sultān Sulaymān's accession to the throne was not until 17th Shawwāl 926/30th September 1520. Thus, if there was any commission by the government it must have been during the reign of Sultan Selīm I. In the light of this, Von Hammer's theory seems to be incorrect, probably as a result of the unavailability of manuscripts at the time. It is perhaps more surprising that this assumption has been repeated uncritically by many scholars

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1. Lybyer, The Government of the Ottoman Empire, p. 153.

2. Ibid., p. 318.

from Lybyer to Meron.<sup>1</sup>

In contrast to its relatively slow acceptance in the madrasas of the empire, the Multaqā quickly achieved a certain popularity among Ottoman jurists, as evidenced by the number of commentaries by qādīs and muftīs which began to appear almost immediately after al-Ḥalabī's death (see pp.219- 276 ). These jurists were not bound to the use of any prescribed legal reference work in the way that madrasa teachers sometimes were.

In his section about the Ottoman shar' code and qānūns Levy writes:

In theory indeed, the Ottoman law was based on the shar' according to the Ḥanafī interpretation, the standard authority after the middle of the sixteenth

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1. Meron adopts a very negative attitude towards the Multaqā and makes remarks such as "In fact, from the point of view of the development of legal thought it is nothing but one more decadent text"... etc. (see "The Development of Legal Thought in Hanafi Texts", p. 116). However, the author himself seems to be ill-informed as to several basic facts about the Multaqā. For example, he speaks of the Multaqā as being "an abridgement, based on the Hidāya" (see L'Obligation alimentaire ... p. 10) whereas al-Ḥalabī defines the contribution of the Hidāya as "a small piece" (nabdha) (see Multaqā, p. 2).



century being the Multaqā al-abḥur, compiled in Arabic, as were all the works of fiqh, by Ibrāhīm al-Ḥalabī, who died in 1549.<sup>1</sup>

However, a more important cause for its quick and extensive recognition among the qādīs was the ordering of its materials and its comprehensive nature. An effort has been made to demonstrate to the reader this comprehensive nature of the Multaqā in Appendix B of this thesis, by comparing certain chapters of the Multaqā with those of its sources. A quick glance at this appendix will demonstrate the fact that the Multaqā contains all the information given in its sources. The points which were omitted by al-Ḥalabī are noted in the footnotes, but these omissions seems to be restricted to certain highly improbable or unimportant cases and do not include any important principle. (For examples see pp. 350, 351, 354, 376..) This has been emphasised by many writers on this subject:

It (the Multaqā) owes its advantage partly to its greater order and completeness and partly to the circumstance that it dates from Sulaymān's time.<sup>2</sup>

Another writer on the Ottoman legal system considered that the particular advantage of the Multaqā lay in its medial

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1. R. Levy, The Social Structure of Islam (Cambridge, 1969), p. 268.

2. Von Hammer, Staatsverfassung, p. 11.



position between the classical works, of which al-Qudūrī's Mukhtaṣar is given as an example, and those modernist treatises as an example of which he cites Ibn 'Ābidīn's Durr al-Mukhtār:

We give preference to the treatise of Ibrāhīm al-Ḥalabī, known under the name of Multaqā ul-Ebhoûr, which holds a middle path between these two extremes and which forms, by virtue of its clearness and simplicity, the most widespread and the most highly esteemed treatise in Turkey.<sup>1</sup>

As has been noted in the relevant section (p.194) the arrangement of the material in the Multaqā is far more thorough and ordered than that of its predecessors. Therefore, it was more convenient as a work of reference, and, since the Multaqā contained almost all the information found in its sources, as a practical handbook in a single volume, it rendered its predecessors largely redundant. For this reason alone Von Hammer could claim that it was "the most complete and best ordered work of the time."<sup>2</sup> This completeness can be illustrated numerically. For example, while al-Qudūrī's work, the Mukhtaṣar, is said to contain 12,000 cases (masā'il),<sup>3</sup> the Multaqā encompasses

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1. Heidborn, Droit Public et Administratif, p. 54.

2. Von Hammer, op. cit., p. 11.

3. KZ, II, 1631.

well over 17,000.<sup>1</sup>

There is no reason to doubt that the Multaqā enjoyed the support of the government and that its use by qādīs and teachers was encouraged presumably with the aim of implementing uniformity of law in the state. We believe that the work was widely recognised during Sultan Sulaymān's time, and almost all sources agree on this point. A European writer on the Ottoman state commented:

The author [al-Ḥalabī] comprised in it [the Multaqā] all decrees from the foundation of Islamism concerning the various subjects of law and theology that had proceeded from the doctors of law before his time. All points respecting dogmas, Divine worship, morals, civil and political law etc. are so immutably settled in this work as to dispense with all future glosses and interpretation.

Since the reign of Sulaymān it has been regarded as an authority without appeal.<sup>2</sup>

All the authorities who wrote on the subject pointed out the comprehensive nature of the Multaqā. Since it contained all the basic information given in its sources those who consulted the work did not need to refer to any of them, at least in most cases, and this fact rendered

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1. M. Mawqūfātī, Mawqūfāt, I, 3.

2. M.A. Ubicini, Lettres Sur la Turquie, English translation by Lady Easthope (London, 1856), I, 139.



the duties of the qādī and muftī easier to perform. This obvious point is also stated by D'Ohsson:

"This work (the Multaqā) is written with clarity and precision, which seldom makes it necessary for the lawyers to refer to the previous canonic books upon which the new code is entirely based."<sup>1</sup>

In this al-Halabī's guidance to the "most sound" or "most correct" decision played an important role and such guidance gave a "moral justification" to the lawyers of less knowledge and saved them from struggling between two decisions.

In his above-mentioned work Von Hammer points out that the Multaqā has gained popularity and recognition at the expense of its predecessors, especially of al-Nasafī's work: "Since the time of Sulaymān, the Multaqā has replaced the Kanz as a handbook for qādīs and muftīs."<sup>2</sup>

However, Professor Uzunçarşılı, with greater caution,

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1. Tableau Général, I, 22.

2. Von Hammer, op. cit., p. 27. Meron (op. cit., p. 65) praises the conciseness of the Kanz and states that the Multaqā is lacking in this. As is shown in Appendix B, the Multaqā contains a great number of articles which are omitted in the Kanz. Especially with regard to the Multaqā it would be more accurate to describe this as "incompleteness" rather than "conciseness".



does not project its dominant position as far back as the sixteenth century, writing that:

After the second half of the 17th century qādīs began forming their decisions according to the principles laid down in Ibrāhīm Ḥalabī's Multaqa 'l-Abhur fi 'l-Furū' al-Hanafīyya and its commentaries.

After naming the sources of the work he adds:

Before the Multaqā, the above mentioned works were used for the same purpose. Through this work, al-Ḥalabī rendered the duty of qādīs much easier than it had been before.<sup>1</sup>

Certainly by the beginning of the 19th century Thornton speaks of the Multaqā as being the "code of laws governing the Ottoman Empire".<sup>2</sup> Although clearly this is an exaggerated statement, Thornton had spent some fifteen years in Istanbul at the end of the 18th century, and his statement must reflect the prominence of the Multaqā as a law book at that time.

As has been noted, the Multaqā served a double role, not only as a text-book for the madrasas but also as a handbook for qādīs and muftīs. In fact the former factor must have influenced the latter greatly, for as the

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1. Uzunçarşılı, İlmiye Teşkilâtı, p. 115.

2. See T. Thornton, The Present State of Turkey, (London, 1807) pp. 91-92.

madrasa was a training ground for the legal career, it was natural and more convenient for the students who had studied the Multaqā, to use it when they obtained positions as qādīs and muftīs. We thus see that alongside its increasing use as a legal text-book in the madrasas, it achieved a growing popularity among the qādīs and muftīs, and it seems reasonable to assume that these developments were related. This popularity of the Multaqā is reflected even in the decisions of the Shaykh al-Islams, where it is one of the most commonly cited sources.<sup>1</sup> However, at no time did it dominate the study and practice of law to the complete exclusion of all other texts and reference books. It did, however, achieve a superior position as the most important legal work in the state. Thus Savvas Pacha (d. ca. 1900) held that: "Jurists consider the Multaqā as a base for codification of the laws."<sup>2</sup> Lybyer adopts the same attitude and describes al-Ḥalabī's work in the same manner:

The Confluence of the Seas (the Multaqa  
'l-Abhur) remained the foundation of Ottoman  
law until the reforms of the 19th century.<sup>3</sup>

In the light of the information given by Ottoman scholars and Western observers who actually spent some

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1. See Muḥammad b. Aḥmad b. al-Shaykh Muṣṭafā al-Kadūsī, Natījat al-Fatāwā ma'a'l-Nuqūl, Istanbul, 1265 A.H.

2. Savvas Pacha, op. cit., I, 118.

3. Lybyer, op. cit., p. 153.



time in the Empire, we can confidently say that the Multaqā was employed widely, and especially in the seventeenth century and onwards became a standard Hanafite text, taking its place in the madrasas and being among the most consulted legal works. Therefore "the generous esteem given to the Multaqā" is not "grossly exaggerated" as suggested by Meron (op. cit., p. 64). The very fact that some fifty commentaries have been composed on the Multaqā is enough to confirm and justify this esteem. One of the recent authorities on Islamic law describes the Multaqā as "one of the latest and most highly esteemed statements of the doctrine of the school, which presents Islamic law in its final, fully developed form without being in any way a code."<sup>1</sup>

We also can see the contribution of the Multaqā in the works compiled by qādīs and muftīs, most of which were, most probably, written as personal reference works rather than as text-books intended for a wider dissemination. A clear example of this can be seen in a work by 'Abd al-Laṭīf b. Luṭf, better known as Luṭf Qādī (d. after 1224/1809). The work itself is entitled the Hadiyya<sup>2</sup> and covers almost the whole area of fiqh. The author first presents the issue in Turkish, then cites the text in Arabic and

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1. See J. Schacht, An Introduction to Islamic Law, p. 112.
  2. The Hadiyya, 290 x 200 mm, 452 ff., compiled in 1224/1809, Ms. in the possession of the author of this thesis.



gives its source. Besides the Multaqā other well-known Hanafite works also appear in this work, books such as the Hidāya, al-Ashbāh wa'l-Nazā'ir, the Tātārkhāniyya, the Mukhtaṣar of al-Qudūrī, the Durr al-Mukhtār, etc. A few examples of the Multaqā's use in the Hadiyya are as follows:

هر كمسه عملنك شو ابنى<sup>غيره</sup> ايله مى شرعا جائز اولور  
وللانسان ان بجعل ثواب عمله لغيره فى جميع المبادات  
ملتنقى الاحرفى باب الحاج

طاهر اولان صوده اولمش صو قورمىسى بولنسه او صوده  
آهدست آلمق جائز اولور  
و موت مايميش فى الماء فيه لاينجسه كالمسك و الدفدع و السرطان  
ملتنقى فى الطهارة

هلات جمعه ده لا اقل اوج اركك بولنشق شرطدر  
و اقل الجماعة ثلثة سوى الامام، ملتنقى، باب الجمعة  
نصابه مالك اولمبان فقير كمسه نك اوزرينه صدقه بى فطر  
و بىرمك لازم كلمز

هى واجبة على الحر المسلم المالك لنصاب فاضل عن حوايجه الاصلية  
و ان لم يكن ناميا، ملتنقى، فى باب صدقة فطر  
وديعه حفظ ايچون هر كمسه به ايداع اولنان مالدر  
والوديعة مايترك عند الامين للحفظ مالا كان او غيره  
ملتنقى، فى الوديعة

هسه بلا عوض هر مالى آخره تمليك ايتمكدر  
الهبة هى تمليك عين بلا عوض، ملتنقى، فى الهبة  
عاريت مجانا يعنى بلا بدل منفعتى تمليك اولنان مالدر  
هى تمليك منفعة بلا بدل، ملتنقى، فى العارضة

In the nineteenth century we find the British authorities requesting the Ottoman Sultan, presumably in his capacity as "Grand Caliph of the Muslims" to provide a well-trained scholar who would solve the disputes occurring within the Muslim community in the Cape colony. Sultan 'Abd al-Majīd was to respond to this request by sending a certain Abū Bakr Efendī<sup>1</sup> to London, whence he was sent to Capetown. A few years after his arrival in 1869, Abū Bakr compiled a book entitled the Bayān al-Dīn<sup>2</sup>, which is based on two languages, the text in Arabic and the commentary in "Cape Dutch" but in Arabic character. Although Abū Bakr was a renowned jurist capable of issuing fatwās according to the four principal rites of Islam, his commentary actually achieved its success in the region due to the fact that it was based on the Multaqā, rather than as a result of his personal prestige as a jurist. M. Brandel-Syrrier thus wrote:

It (the Bayān al-Dīn) derives its authoritativeness from the fact that it is a close copy of al-Ḥalabī's Multaqā ... and not

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1. Abū Bakr Efendī b. 'Umar, known as al-Khashnawī, died in 1880.
  2. This work has been translated into English and edited with an introduction by Mia Brandel-Syrrier, under the name of The Religious Duties of Islam as Taught and Explained by Abū Bakr Effendī (Leiden, 1960 and 1971).

from the fact that it was written by a recognised muftī.<sup>1</sup>

The text of the Bayān al-Dīn follows the traditional pattern of the Hanafite law books and its information is mainly borrowed from the Multaqā, as Brandel-Syrrier points out: "The author seldom deviates from his Hanafī prototype, al-Ḥalabī's Multaqā ..."<sup>2</sup> However, this work is only the first of the two volumes originally intended, consisting of the sections on ritual purification, ritual prayer, the alms tax, fasting, ritual slaughter, ritual prohibitions and hunting. This undoubtedly demonstrates the continuing authority of the Multaqā even in the second half of the nineteenth century, and its influence on the various compilations on Islamic juridical practice.

The Multaqā has also attracted the attention of other Western writers on the Ottoman Empire, especially in the nineteenth century. The Ottoman reforms of the period encouraged the interest of Western writers and scholars and as a result we have a number of observations on the Ottoman judicial system, its canon law and its sources. For example, J.L. Farley, after commenting on the reforms and the position of non-Muslims in the Empire, states:

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1. M. Brandel-Syrrier, op. cit., p. xxiv.

2. Ibid., p. xxxv.



Revered almost equally with the Koran, the Multeka is the religious, civil, penal, political and military code of the Ottoman Empire ...<sup>1</sup>

He then adds:

The Multeka, or digest of the Mahommedan Canon Law, was written in Arabic by a Turkish lawyer several centuries ago. It gives the decisions arrived at by the two great legists of Sunni Mahommedanism, and is the text-book and authority in the law courts throughout Turkey. Indeed, all Sunnī legists in Turkey, and in other Sunnī countries, study this book, and make their references to it. Cadis and Muftis take it, with other similar books, as a guide to their decisions, as our judges consult the decisions of their predecessors. It is, however, of a far greater authority than any such decisions can be amongst ourselves; because it is a fundamental principle in Turkey that no one, neither the Sultan nor the Government combined, can change or abrogate the Canon Law of that country. The Sultan rules

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1. J.L. Farley, Turks and Christians, A Solution of the Eastern Question (London, 1876), p. 155.

over the Turks, but the Koran and the  
Multeka rule over the Sultan.<sup>1</sup>

While this statement is certainly not without some degree of exaggeration, it at least represents the view of a foreign analyst of Ottoman legal practice, an observer who was struck by the importance of this work in the period in which he was writing.

We may conclude by quoting the lines of the Turkish national poet M. Âkif Ersoy, which show that the renown of the Multaqā has spread over into the realms of poetry:

Sayırsız hâdise var ortada tatbik edecek;  
Hani bir tane usûl âlimi, yâhu bir tek?  
Böyle âvâre düşünceyle yaşanmaz heyhat,  
"Mülteka" fıkhnızın nâmı, usûlün "Mir'ât".

(Safahat, p. 418)

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1. Ibid., p. 156.

### Conclusion

Many writers, both Ottoman and European, have emphasised the importance of al-Ḥalabī's Multaqā as one of the basic law-books of the Ottoman Empire from the time of its composition to the time of the promulgation of the Majalla. More recently certain western writers, notably Y. Meron, have questioned both the importance and the intrinsic value of the Multaqā, but since no systematic study of al-Ḥalabī and his work has until now been undertaken neither point of view has rested on a solid academic foundation. The present thesis represents an attempt to fill a serious gap in our knowledge of the development of Islamic scholarship in the sixteenth century Ottoman Empire. As a result of this study it has been possible to reach a number of conclusions.

In the first place, we have been able to confirm the importance of the Multaqā in the Ottoman educational and legal systems. As a text-book in the madrasas it was widely taught and attracted a large number of commentaries, a certain indication of the popularity of any work. Likewise it was commented on by qādīs and muftīs, and a number of Ottoman writers have testified to the use then made of it, while contemporary Western writers also emphasise its importance. Finally a study of the contribution of the Multaqā to the Majalla shows that it is easily the most important single source to contribute to the latter.



Some suggestions have been made here to account for the success of the Multaqā ; in particular attention has been drawn to its conciseness ( important in an age when all texts had to be written out by hand ) , its comprehensiveness, which removed the necessity of going through other sources,<sup>1</sup> its orderly presentation ,and the fact that, much more than its predecessors, it offers guidance as to the most correct decision, thus becoming a very convenient handbook for the ordinary qāḍī and muftī as well as for common people who may have wished to consult it. The contribution of the Multaqā was enhanced still further when taken in conjunction with its commentaries, in particular the Majma' al-Anhur, and also its Turkish translation and commentary the Mawqūfāt which made it available to a much wider readership.

The importance of the Multaqā has, we believe, been confirmed by the present study, and its author Ibrāhīm al-Ḥalabī has been shown to be one of the major scholars of his period. The Multaqā alone would justify a study of this writer, but his contribution to Islamic scholarship has been shown to be much wider than this. He is the author of over twenty surviving works, ranging from commentaries to short risālas and ta'liqāt which illustrate the range of his interests. Apart from the Ḥalabī Kabīr and Ḥalabī Ṣaghīr, none of these works have been published or described, and a study of these works is offered in this thesis for the first time. The most important of these works is his attack on Ibn 'Arabī

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1. For detailed analysis see appendix B.

entitled Ni'mat al-Dharī'a, in which he emerges as a champion of Hanafite orthodoxy of the same rank as his associates Çiwi-zāda and Birgiwī. This work in particular illustrates an important aspect of al-Ḥalabī's career in that it shows him to be a major figure among those scholars within the Ottoman Empire who opposed many of the more extreme sufi practices which flourished as a result of the protection then enjoyed in court circles, but were not universally accepted nevertheless. In this opposition to extreme practices al-Ḥalabī acts as a bridge between an earlier generation of scholars and a later generation, among whom such names as Muḥammad Qādī-zāda and Uṣṭuwānī Muḥammad Efendī may be mentioned.

Relatively little direct information is available as to al-Ḥalabī's biography and background. All available facts have been assembled, and an attempt has been made to describe the scholarly and social milieu in Mamluk Syria and Egypt and in Istanbul, in which al-Ḥalabī flourished. While we have little information about al-Ḥalabī's contacts with specific scholars, it seems reasonable to assume that his cultural background must have had an effect on his own attitudes.

It is hoped that the present study will make a useful contribution to our knowledge of the scholarly and religious life of this period and help to establish the place of Ibrāhīm al-Ḥalabī in it.



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Appendix A

The following table, as has been said previously, is based on the information given in the Mir'āt-i Majalla by Mas'ūd Efendī. (See p.280 ) The first column gives the names of the sources used in the compilation of the Majalla, the second column (No. A) gives the number of the articles based on that particular source, and these numbers are made up to round figures, e.g. 80, 75 rather than 78, 73 etc. The third column (%) gives the percentage of the contribution of each source or group of sources. Again all percentages are made up to a whole figure.

Of the 1851 articles of the Majalla, the first one hundred (known as qawā'id-i kulliyya) are based on the Ashbāh and the Majāmi' and refer to universal principles rather than specific points of law. Another 150 articles are simply translations into Turkish of Arabic terms and thus are not derived as such from earlier sources. Our calculation is accordingly based on the remaining 1,600 articles.

As the table shows, the biggest percentage goes to the Multaqā and the Majma'. These are followed by Fatāwā al-Hindiyya, Durr al-Mukhtār etc. The number of the sources which are mentioned less than ten times exceeds thirty, but since the aim of this table is to give an idea of the contribution of the Multaqā and its commentaries in comparison to other sources, we have not felt it necessary to name all these individual sources all of which may be found in the Mir'āt-i Majalla. Further information about sources mentioned in the table may be obtained from GAL, KZ and library catalogues.

Source	NoA	%		%
M,MA,MI,DM	270	17	Sources mentioned between 15-20 times (cont.)	
" (P)	80	5		
F.Hindiyya	165	10	Dhakhīra	↑
Durr al-Mukhtār	130	8	Mabsūṭ	↑
Radd al-Mukhtār	115	7	Sources mentioned between 10-15 times	
Durar-i Ghurar	85	5		
F.Qāḍīkhān	80	5	Muḥīṭ of Burhānī	↓
F.Tātārkhāniyya	70	4	F.Zāhiriyya	↓
Tanqīḥ al-Ḥāmidī	65	4	Khizānat al-Fatāwā	↓
Muḥīṭ of Sarakhsī	50	3	Khizānat al-Muftiyyīn	6
F.Anqarawī	45	3	Jāmi' al-Fatāwā	↑
Bazzāziyya	35	2	Qūhistānī	↑
Ashbāh	35	2	F.Ghiyāthiyya	↑
al-Kafawī	35	2	al-Kāfī	↑
Sources mentioned between 20-25 times			Sources mentioned less than 10 times	
Khulāṣa		↓	Jawāhir al-Fatāwā	↓
Badāyi'		4	Fath al-Qadīr	↓
Majāmi'		↑	Bahjat al-Fatāwā	↓
Sources mentioned between 15-20 times			al-'Ināya	↓
			al-Nihāya	6
Ṭaḥṭāwī		↓	Majma' al-Baḥrayn	↑
Ḥamāwī		↓	al-Ḥāwī	↑
Baḥr al-Rā'iq		7	Ṣadr al-Sharī'a	↑
Jāmi' al-Fuṣūlayn		↑	Kanz al-Daqā'iq	↑
Hidāya			Lisān al-Ḥukkām	↑
Sirāj al-Wahhāj			Tabyīn al-Ḥaqā'iq, etc.	↑



Abbreviations:

M	<u>Multaqa 'l-Abhur</u>	
MA	<u>Majma' al-Anhur</u>	(see p.241)
DM	<u>Durr al-Muntaqā</u>	(see p.247)
MI	<u>al-Mirwaha</u>	(see p.274)
(P)	Partly	

Number of the article in Majalla	Source of the information	Number of the article in Majalla	Source of the information
44	M	215	M
80	M	217	MA
167	M	218	MA
168	MA (P)	220	M, MA
169	M, MA	249	M, MA
175	M	250	M, MA
179	MA	252	M, MA
180	MA	253	M, MA
189	MA	255	M, MA
191	MA	256	M, MA
193	MA (P)	257	M, MA
194	MA	258	M, MA
195	MA	260	M
203	MA	261	MA
211	MA	263	MA
212	M	268	M
214	MA	272	MA

<u>Number</u>	<u>Source</u>	<u>Number</u>	<u>Source</u>
274	MA	338	MA (P)
288	MA	345	MA
289	MA	351	MA
300	M	352	MA
301	M	354	MA
304	MA	370	MA
305	MA	371	MA
306	MA	372	M
307	M	373	M
308	MA	375	M (P)
309	MA	381	MA
310	M, MA	382	MA
312	MI	383	MA
316	MA (P)	384	MA
318	M (P)	385	MA
319	MA	401	M
321	MA	405	MA
322	MA	424	MA
324	M	427	M
325	MA	428	MA
326	MA	429	M, MA (P)
327	MA	432	MA
329	MA	455	MA (P)
331	MA	456	MA
335	M	480	MA
336	MA	482	M
337	MA	483	MA

<u>Number</u>	<u>Source</u>	<u>Number</u>	<u>Source</u>
497	M	666	M (P)
499	M	677	MA (P)
500	MA	692	MA (P)
506	M (P)	706	M, MA
518	MA (P)	710	MA
523	MA	712	MA
524	MA	715	M
525	MA	718	MA
531	M	722	MA
551	MA	723	M (P)
552	MA (P)	724	M (P)
553	MA (P)	741	MA
556	MA	747	M
559	M	748	MA (P)
571	MA	750	MA (P)
572	MA	752	M (P)
573	MA	760	M
608	MA (P)	761	M (P)
611	MA	762	MA (P)
616	MA	763	M
627	MA	764	MA
632	MA	765	M
643	MA	770	M
648	M	773	MA
657	M (P)	776	MA (P)
662	M (P)	780	MA (P)
665	M	783	MA



<u>Number</u>	<u>Source</u>	<u>Number</u>	<u>Source</u>
784	M (P)	873	MA
787	M (P)	874	MA
789	MA (P)	885	M (P)
790	M	886	MA (P)
795	M, MA (P)	889	M
796	MA	890	MA
799	M	891	M (P)
806	M	898	MA
813	MA (P)	899	M
816	M	901	MA
819	MA (P)	906	MA (P)
822	MA	914	MA
823	MA	927	M, MA (P)
830	M (P)	928	MA (P)
831	M, MA	932	MA
832	MA	933	MA
833	MA	947	MA
837	M	964	MA
841	MA	970	MA
846	MA	978	MA
851	M	987	M
853	MA	991	MA
859	MA	992	M
867	MA	993	MA
868	M	998	M
870	MA	1000	MA
872	MA	1002	MA (P)

<u>Number</u>	<u>Source</u>	<u>Number</u>	<u>Source</u>
1012	MA	1177	MA
1013	MA	1183	MA
1023	M	1185	MA
1025	MA (P)	1186	MA
1026	MA	1187	MA (P)
1034	MA	1191	M
1036	MA	1232	M
1037	MA (P)	1265	MA (P)
1040	MA	1267	MA
1044	MA (P)	1268	MA
1060	MA	1269	M
1065	MA (P)	1270	MA
1071	MA	1271	MA
1088	MA	1279	MA
1104	MA	1281	M, MA
1105	MA	1282	MA
1112	MA (P)	1284	MA
1117	MA (P)	1285	MA
1118	MA	1286	MA
1126	MA	1290	MA
1127	MA (P)	1295	M, MA
1128	MA (P)	1297	M, MA
1132	MA (P)	1298	MA
1135	MA (P)	1299	MA
1140	MA	1323	MA
1149	MA	1330	MA
1167	MA	1331	M, MA (P)

<u>Number</u>	<u>Source</u>	<u>Number</u>	<u>Source</u>
1333	M, MI (P)	1420	MA (P)
1334	MA	1421	MA
1336	M, MI (P)	1422	M, MI
1337	MA (P)	1426	MA
1338	M	1427	MA
1339	M	1428	M
1340	MA	1431	M
1342	MA	1438	M
1345	MA	1439	MA
1346	M	1440	MA
1351	MI (P)	1441	MA
1365	MA	1447	MA
1366	MA	1448	MA (P)
1369	M	1459	MA (P)
1372	M (P)	1469	M, DM
1379	M, MA (P)	1475	MA (P)
1385	MA	1492	M
1386	MA (P)	1500	MA
1388	MA (P)	1503	M, DM
1391-	M	1505	MA
1399	MA (P)	1519	MA
1401	MA	1520	MA (P)
1402	MA (P)	1521	MA (P)
1403	MA	1523	MA
1407	MA	1527	M
1413	M	1528	M
1416	M, MI	1544	M (P)



<u>Number</u>	<u>Source</u>	<u>Number</u>	<u>Source</u>
1550	M	1778	M, MA
1551	MA	1779	M, MA
1553	M	1780	M, MA
1554	M	1781	M, MA
1560	M (P)	1783	MA
1572	MA (P)	1792	MA
1576	MA (P)	1793	MA (P)
1602	M	1795	MA
1617	MI (P)	1796	MA
1700	MA	1797	MA (P)
1710	MA (P)	1798	M, MA
1714	MA (P)	1814	MA
1721	M	1824	MA
1722	MA	1825	MA
1728	M	1826	DM (P)
1729	M	1847	M (P)
1730	M	1848	M, MI
1731	M	1849	M
1732	MA (P)		
1742	M		
1749	M, MA		
1757	M		
1758	M (P)		
1759	M		
1760	MA		
1762	M		
1771	MA		

Appendix B

In this appendix of this present work an attempt was made to demonstrate the nature and the extent of the relationship between the Multaqā and its sources. The text of five selected chapters of the Multaqā, with some omissions from Kitāb al-Ṣalāt, is compared with the text of its sources.

When a source contained the same information about a certain principle this is indicated by its symbol on the left side of the main text. In the case of the source's omission of this information, this is indicated by ( - ). The omission by al-Ḥalabī of the information given in Multaqā's sources are also given in the footnotes.

It is also aimed to give variants of some principles, and terminology to the reader in these footnotes where it was necessary. It is hoped that this chapter will demonstrate the rich contents of the Multaqā compared with that of its sources and give some idea to the reader of the selection of information. The symbols used in this chapter are as follows:-

Q - The Mukhtaṣar al-Qudūrī

V - The Wiqāyat al-Riwāya

K - The Kanz al-Daqā'iq

B - The Majma' al-Baḥrayn

H - The Hidāya

M - The Mukhtār

## كتاب الطهارة

قال الله تعالى يا ايها الذين آمنوا اذا قمتم الى الصلوة فاغسلوا  
وجوهكم وايديكم الى المرافق وامسحوا برؤوسكم وارجلكم

Q - K V - H

الى الكعبين <sup>1</sup>

ففرض الوضوء :

Q M K V B H

غسل الاعضاء الثلاثة ومسح الرأس <sup>2</sup>

Q M K V B H

والوجه ما بين قضاص الشعر واسفل الذقن

- - K V B H

وشحمة الاذنين

فيفرض غسل ما بين العذار والاذن خلافا لابي يوسف

- M K V B H

والعرفقان والكعبان يدخلان في الغسل

Q M K V B H

والخروض في مسح الرأس قدر الربع

- - - - - H

وقيل يجزئ وضع ثلاث اصابع

- - - - - H

ولو ط اصبع او اصبعين لا يجزئ

- - K V B -

ويفرض مسح ربع اللحية في رواية والاصح مسح ما يلاقي البشرة

وسنته :

Q M K V B H

غسل اليدين الى الرسفين ابتداء

Q M K V B H

والنسيمة <sup>3</sup> وقيل هي مستحبة والسواك

Q M K V B H

وغسل الفم <sup>4</sup> بياه <sup>5</sup> والانف بياه

1) Qur'ān, 5:6.

2) In Q and H it is added that the proportion of the head to be moistened should be at least the amount of the forehead.

3) al-Tasmiya : saying the formula "Bismillāhi'r-rahmāni'r-rahīm", in the name of Allāh, the Beneficent, the Merciful.

4) Q, M, B and H use the technical term madmada.

5) Q, M, B and H use the term istinshāq.



وتخليل اللحية والاصابع هو المختار

Q M K V B H

وقيل هو في اللحية فضيلة عند الامام ومحمد

- - - - B H

وتثليث الغسل

Q M K V B H

والنية والترتيب المنصوص واستيعاب الرأس بالمسح

- - K V B H

وقيل هذه الثلاثة مستحبة<sup>1</sup>

- - - - B H

والولا، ومسح الاذنين بـ"الرأس

- M K V B -

ومستحبه :

التيامن ومسح الرقبة<sup>2</sup>

Q M K V B H

والمعاني الناقضة له :

خروج شيء من احد السبيلين (سوى ريح الفرج او الذكر)<sup>3</sup>

Q M K V B H

وخروج شيء نجس من البدن ان سال بنفسه الى ما يلحقه حكم التطهير

- - - - B H

والقيء ملاء الفم (ولو طعما او ماء او مرة او علقا)<sup>4</sup>

- M K V - H

لا يلفظ مطلقا خلافا لابي يوسف في الصاعد من الجوف

- - - - - H

ويشترط في الدم الطبع والقبح مساواة البزاق لا الملاء خلافا لمحمد

- - - - B H

وهو يعتبر اتحاد السبب يجمع ما قاء قليلا قليلا

- - - - B H

وابو يوسف اتحاد المجلس وما ليس حدثا ليس نجسا

- - - - B H

والجنون والسكر والاعطاش وقهقهة بالغ في صلاة ذات ركوع وسجود

Q M K V B H

وباشرة فاحشة خلافا لمحمد

- - K V B -

1) These three, to pronounce the intention, to observe the sequence and to execute the complete friction of the whole head only once are given in M and H as desirable, (mustahab).

2) B does not mention "moistening of the neck".

3) Not in H.

4) Not mentioned in B, but it adds that phlegm invalidates the ablution.

5) Q, M and H do not mention sakr, intoxication.

Q M K V B H

ونوم خطبج او منكى او مستند الى ما لوازيل لسقط

----- B H

لا نوم قائم او قلعد او راع او ساجد<sup>1</sup>

-- V K - H

و لا خروج دودة من جرح او لحم سقط منه

- M V K - -

ومس ذكر وامرأة

وفرض الغسل :

Q M K V B H

غسل الفم والانف وسائر البدن لا دلكه<sup>2</sup>

- - K - - -

قيل ولا ادخال الطء جلدة الاثني

وستته :

Q M K V B H

غسل يديه وفرجه ونجاسته ان كانت

Q M - V B H

والوضوء الارجليه وتثليث الغسل المستوعب

Q M K V - H

ثم غسل الرجلين لا في مكانه ان كان في مستنقع الطء

Q - K V B H

وليس على المرأة نقض صغيرتها ولا بلها ان بل اصلها

وفرض لانزال مني ندى دفق وشهوة ولو في نوم عند انفصاله

Q M K V - H

لا لخروجه خلافا لابي يوسف<sup>3</sup>

- M - V - -

ولرؤية مستيقظ لم يتذكر الاحتلام بللا ولو مذيا خلافا له<sup>4</sup>

ولا يلج خشفة في قبل او دبر (من آدي حي)<sup>5</sup> وان لم ينزل على

Q M K V - H

الفاعل والفعل

- 1) B adds "in the view of Abū Yūsuf, if someone falls asleep deliberately in his prayer, this invalidates his ablution."
- 2) Q, V and H use the terms madmada and istinshāq. M and H omit lā dalkuhu.
- 3) V does not mention "even while asleep."
- 4) Here B gives the opposite view: "On awakening, if one sees pure wetness one is not required to have ritual washing unless one remembers a sexual dream."
- 5) The sources do not mention this part.

Q M K V B H

ولانقطاع حيض ونفاس

- - K - - H

لا لمذى وودى واحتلام بلا بلل وايلاج في بهيمة او مينة بلا انزال<sup>1</sup>

Q M K V B H

ومن للجمعة والعيد والاحرام وعرفة

- - K - - -

وجيب للميت كفاية وعلى من أسلم جنبا والا ندب

Q M - V B -

ولا يجوز لمحدث من صحف الا بغلافه المنفصل لا المتصل في الصحيح

- - - - - H

وكرهه بالكم ولا من درهم فيه صورة الابصرته

Q M - - B H

ولا لجنب دخول السجد الالضرورة

Q M - - - H

ولا قراءة القرآن ولودون آية الاعلى وجه الدعاء والتنا

Q M - - - H

ويجوز له الذكر والتسبيح والدعاء

Q M - - - H

والحائض والنفساء كالجنب

### فصل

ويجوز الطهارة بالطين الطلق كما السط والعين والبثر والاولدية

Q M K V B H

### والبحار<sup>2</sup>

Q M K V B H

وان غير طاهر بعض اوصافه كالتراب والعفران والصابون

Q M K V B H

اوانتن بالمكث لا بطا خرج عن طبعه بكثرة الاوراق او بغلبة غيره

Q M K V - H

او بالطبخ كالاشربة والخل وطا الورد وطا الباقلات والعرق

1) H gives the description of the three different fluids, madhī, manī and wadī.

2) K and H give the Qur'anic verse (25:48): "... and we send down purifying water from the sky." as the base of this injunction. Bi'r is mentioned only in Q, M and H and the awdiya is given in Q and H. al-bihār is omitted in M.



ولا بطء قليل وقع فيه نجس ما لم يكن غديراً لا يتحرك طهره

Q M K V B H

الآخر ولم يكن غسراً في عشر

وعقه ما لا تنحسر الأرض بالغرف فانه كالماء الجاري ( وهو

ما يذهب بنبنة )<sup>1</sup> فتجوز الطهارة به ما لم ير أثر النجاسة

Q M K V B H

وهولون او طعم او ريح

### فصل

Q M K V - H

والماء المستعمل طاهر غير طهر هو المختار

- - - - B H

وعن الامام انه نجس مغلظ وعند ابي يوسف مخفف

Q M - - B H

وهو ما استعمل لقربة او لرفع حدث خلافاً للحمد

- M - - B H

ويصير مستعملاً اذا انفصل عن البدن وقيل اذا استقر في مكان

ولو انفس جنب في البئر بلانية فقل الطاء والرجل نجسان

- - - - B H

عند الامام

- - - - B H

والاصح ان الرجل طاهر والطاء مستعمل عنده<sup>2</sup>

- - - - B H

وعند ابي يوسف طاهراً بحالها وعند محمد الرجل طاهر والطاء طاهر

Q M - - - H

وموت ما يعيش في لاء فيه لا ينجسه كالمسك والصفدع والسرطان

Q M - - B H

وكذا موت ما لا نفس له سائلة كالبق والذباب والزبور والعقرب

وكل اهاب ربيع فقد طهر الا جلد الاربي لكرامته والخنزير

Q M K V - H

لنجاسة عينه<sup>3</sup>

1) Omitted in M, V and Q.

2) 'Indahu: "according to him" i.e. according to Abū Ḥanīfa who stood alone in this opinion whilst Abū Yūsuf held that the water becomes "used" only if the intention to clean oneself was made. This subject is said to have been a notorious examination question amongst Ḥanafite students.

3) al-Ḥalabī omitted sha'ru 'l-insān mentioned in K.

والفيل كالسبع وعند محمد كالخنزير

- - - - B -

Q M K V B H

قالوا وطهر جلده بالدباغ طهر بالذكاة وكذا لحمه وان لم يؤكل

Q M K V B H

و شعر الميتة وعظمها وعصبها وقرنها وحافرها طاهر

وكذا شعر الانسان وعظمه فيجوز الصلاة معه وان

- M K V B H

جاوز قدر الدرهم

- - K - - -

وبول ما يؤكل لحمه نجس خلافا لمحمد

- - K - - -

ولا يشرب ولوللتداوى خلافا لابي يوسف

### فصل

Q M K V - H

تنزع البئر لوقوع نجس لا بنحو بعر وروث وخشي ما لم يستنكر

- M K - - H

ولا بخريء حطام وعصفرة فانه طاهر

واذا علم وقت الوقوع حكم بالنجس من وقته والا فمن يوم وليلة

Q - - V B H

ان لم يتفخخ الواقع اولم ينفسخ

Q - - V B H

ومن ثلثة ايام ولياليها ان انتفخ او تنفسخ

Q - - V B H

وقالا من وقت الوجـدان<sup>1</sup>

Q M K V B H

عشرون دلو وسطا الى ثلثين بموت نحو فارة او عصفور او سام ابرص<sup>2</sup>

Q M K V B H

واربعون الى ستين بنحو حطة او دجاجة او سنور<sup>3</sup>

Q M K V B H

وكه بنحو كلب وشاة او ادمي او انتفاخ الحيوان او تنفسه

1) According to Imām Muḥammad and Abū Yūsuf, if the time of the pollution is not known, then there is no obligation upon the people who used the water of that well for ritual ablution or similar purposes.

2) In V it is given as 20 buckets.

3) V gives it as 40 buckets.

وان لم يمكن نزحها نزع قدر ما كان فيها<sup>1</sup>  
 ويقتى ينزع ماقتى دلو الى ثلثائة وما زاد على الوسط احتسب به<sup>2</sup>  
 وقيل يعتبر في كل بئر دلوها  
 وسور الادي والفرس وما يؤكل لحمه طاهر<sup>3</sup>  
 سور الكلب والخنزير وسباع البهايم نجس  
 وسور الهرة والدجاجة الغلالة وسباع الطير وسواكن البيت  
 كالحية والفارة مكروه  
 وسور البغل والحمار مشكوك يتوضأ به ان لم يجد غيره  
 ويتيمم وايا قدم جاز  
 وعرق كل شئ كسوره  
 وان لم يوجد الا نبذ التمر يتيمم ولا يتوضأ به عــــــند  
 ابي يوسف وبه يفتى<sup>4</sup>  
 وعند الامام يتوضأ به وعند محمد يجمع بينهما

Q M - V - H  
 Q M - V - H  
 Q M - V - H  
 Q M K V - H  
 Q M K V B H  
 Q M K V B H  
 Q M K V B H  
 - - - V - -  
 - - K V - H  
 - - K V - H

- 1) V, in this case holds that 200 buckets should be drawn off and thrown away.
- 2) This is the view of Imām Muḥammad and it is accepted by the majority of jurists.
- 3) Only the horse is mentioned in B.
- 4) In both the Sunan of Ibn Māja (I, 79) and the Sunan of al-Tirmidhī (I, 147) there is a hadith which in the absence of water, would allow the performance of ritual ablution with nabīdh (date-wine). The presence of an unknown narrator (Abū Zayd) in the isnād had led to this being regarded by al-Shafi'ī and Abū Yūsuf as a weak tradition, but certain scholars such as Abū Ḥanīfa and Sufyān al-Thawrī were prepared to accept its authenticity. Al-Ḥalabī, however, rejects the permissibility of performing ablution with nabīdh, supporting the stand taken by Abū Yūsuf and advocating the use of sand when water is not available. Without specifying an authority al-Ḥalabī adds wa bihī yuḥtā. Most probably to guide the reader towards the decision he himself prefers. In this, no doubt, he was influenced by the general abhorrence towards alcoholic drinks felt in society.



## باب التيمم

Q M K V - H	يتيمم المسافر ومن هو خارج الحر لبعده عن الماء ميلا
Q M K V - H	او المرض خاف زيادته (او بطو برئه) <sup>1</sup>
- M K V - -	او لخوف عدو او سبع او عطش او لفقد آلة
Q - K V B H	بطا كان من جنس الارض كالتراب والرمل و النورة
Q - - - - H	والجص والكحل والزنبرج والحجر ولو بلا نقع خلافا لمحمد
Q - - - - H	وخصه ابو يوسف بالتراب والرمل
- - - - B -	ويجوز بالنقع حال الاختيار خلافا له
- - - - B -	وشروطه العجز عن استعمال الماء حقيقة او حكما
Q M K V B H	وطهارة الصعيد والاستيعاب في الاصح والنية
- - - - B H	ولا بد من نية قربة مقصودة لا تصح بدون الطهارة
- - K V - H	فلو تيمم كافر للاسلام لا تجوز صلاته به خلافا لابي يوسف <sup>2</sup>
- M K V - H	ولا يشترط تعيين الحدث او الجنابة هو الصحيح
	وصفته ان يضرب يديه على الصعيد فينفضها ثم يمسح بهما
	وجهه ثم يضرب بهما كذلك ويمسح بكل كف ظاهر
- M K V B H	الذراع الاخرى وباطنها مع المرفق
- M K V B H	ويستوى فيه الجنب والمحدث والحائض والنفساء

1) Not in H.

2) B gives the opposite view advocated by Abū Yūsuf. Al-Halabī does not take the information given in B about an impure person who performs tayammum for janāba, then repeats it for prayers and finds insufficient water ... etc. probably because of the rare nature of the case.

Q M K V B H	ويجوز قبل الوقت ويصلي به طائفاً من فرض ونفل كالوضوء
Q M K V B H	ويجوز لخوف فوت صلاة جنازة أو عيد ابتداءً
Q M K V B H	وكذا بناً بعد شروعه متوضئاً وسبق حدثه خلافاً لها
Q M K V B H	لا لخوف فوت الجمعة أو وقتية
	(ولا ينقذه ردة) <sup>1</sup> بل ناقص الوضوء والقدرة على طهارة
Q M K V B H	وعلى استعجاله
- - - - B -	فلو وجدت وهو في الصلاة بطلت صلاته لا أن حصلت بعدها
Q M K V - H	ولونسيه المسافر في رحله وصلى بالتيمة لا يعيد
Q M K V - H	وقال أبو يوسف يعيد ما دام في الوقت
Q - - V B H	ويستحب لراحي الطهارة تأخير الصلاة إلى آخر الوقت
Q - K V B H	ويجب طلبه أن ظن قربه قدر غلوة والا فلا <sup>2</sup>
- M K - B H	ويجب شراء الطهارة أن كان له ثمن وبيع بثمن المثل والأفلا
Q M K - B H	وأن كان مع رفيقه طهارة طلبه فإن ضعه تيمم
- - - - B H	وأن تيمم قبل الطلب أو الجنب في المصل لخوف البرد جاز خلافاً لها
	ولا يجمع بين الوضوء والتيمم فإن كان أكثر الأجزاء جريحاً
- M K - B -	تيمم والاغسل الصحيح ومسح على الجريح

1) Mentioned only in K, V and B.

2) It is necessary for the person to go and fetch the water if he thinks it to be about a bowshot's distance away. If, however, he thinks that it is further than that, he may perform tayammum, friction, with sand.

باب المسح على الخفين

Q M K V B H	يجوز بالسنة من كل حدث موجب الوضوء لا لمن وجب عليه الغسل
Q M K V B H	ان كانا مطبوسين على طهر تام من وقت الحدث شيوط وليلة للمقيم
Q M K V B H	وثلاثة ايام ولياليها للمسافر من وقت الحدث
Q M K V B H	وفرضه قدر ثلاث اصابع من اليد على الاعلى <sup>1</sup>
Q M K V B H	وسته ان يبدأ من اصابع الرجل ويد الى الساق فرجا اصابعه
Q M K V B H	خطوطا مرة واحدة
Q M K V B H	ويضعه الخرق الكبير وهو مطبوع منه قدر ثلاث اصابع
Q M K V B H	الرجل اصفرها
Q M K V B H	ويجمع في خف لا في خفين (بخلاف النجاسة والانكشاف) <sup>2</sup>
Q M K V B H	وينقصه ناقص الوضوء ونزع الخف وضى الدعة ان لم يخف تلف
Q M K V B H	رجله من البرد فلو نزع او وضت وهو مضمي غسل رجليه فقط
Q M K V B H	وخرج اكر القدم الى ساق الخف نزع
Q M K V B H	ولو مسح مقيم فساغر قبل يوم وليلة تمام مدة المسافر
Q M K V B H	ولو مسح مسافر فاظم لتطام يوم وليلة نزع والانتمها
Q M K V B H	والمعذور ان لبس على الانقطاع فكما الصحيح والا مسح فسي
- - - - B H	الوقت لا بعد خروجه

- 1) Only M classifies these as being fard and sunna; other sources give the same information but without classification.
- 2) This part is mentioned only in K.



Q M - - - H

ويجوز المسح على الجرموق فوق الخف ان لبسه قبل الحدث  
وعلى الجرب مجلدا او منعلا وكذا على الثخين في الاصح  
عن الامام وهو قولهما<sup>1</sup>

- M K - B H

Q M K V B H

لا على عمامة وقلنسوة وبرقع وقفازين

Q M K V B H

ويجوز المسح على الجنبيرة (وخرقة القرحة ونحوها)<sup>2</sup>

Q M K V B H

وان شدها بلا وضوء وهو كالغسل فيجمع معه ولا يتوقت  
ويمسح على كل المصابة مع فرجتها ان اضره حلها كانت تحتها

- - K - B -

جراحة او لا

Q M K - B H

ويكفي مسح اكرها فان سقطت عن برء بطل والا فلا

- - - - - H

ولو تركه من غير عذر جاز خلافا لهما

ولو وضع على شقاق رجله دواء لا يصل الماء تحته يجزئ

- - K - B -

اجراء الماء على ظاهر الداء<sup>3</sup>

- - K - - -

ولا يفتقر الى نية في مسح الخف والرأس

- 1) There have been different views on the description of jawrab or jūrab. Some of the jurists held that it is ordinary socks whilst others maintained that it should be lined with skin on top and at the bottom or only at the bottom.
- 2) Not mentioned in B.
- 3) K and B give this principle without mentioning the ointment.

باب الحيض

- M K V - -	هو دم ينفضه رحم امرأة بالفسة لا داء بها <sup>1</sup>
Q M K V B H	واقته ثلاثة ايام بلياليها وعن ابي يوسف يومان واكثر الثالث
Q M K V B H	واكثره عشرة ايام وما نقص عن اقله او زاد على اكثره فهو استحاضة
Q M K V B H	وما تراه من الالوان في مدته سوى البياض الخالص فهو حيض
- - K V B -	وكذا الطهر المتخلل بين الدمين فيها
	<sup>2</sup> وهو يمنع الصلاة والصوم وتنقيته دونها ودخول المسجد والطواف
Q M K V B H	(وقربان ما تحت الازار) <sup>3</sup> وعند محمد قربان الفرج فقط <sup>4</sup>
- M - - - -	ويكفر مستحل وطئها
Q M K V B H	وان انقطع لتام العشرة حل وطئها قبل الغسل
	وان انقطع لا قل لا يحل حتى تغتسل او يضي عليها ادنى وقت
Q M K V B H	صلاة كاملة وان كان دون عادتها لا يحل وان اغتسلت
Q M K V B H	واقط الطهر خمسة عشر يوما
Q M K V B H	ولا حد لاكثره الا عند نصب العادة في زمن الاستمرار <sup>5</sup>
	واذا زاد الدم على العادة فان جاوز العشرة فالزائد كله استحاضة
Q - K V B H	والا فحيض
Q M K V B H	وان كانت مبتدئة وزاد على العشرة فالعشرة حيض والزائد استحاضة

- 1) M does not give the part "free of illness."
- 2) K and V add that she is not permitted to recite Qur'ān like the junub and nufasā'.
- 3) Given in K and B.
- 4) K and V do not give the view of the two Imāms.
- 5) K provides the definition of tuhr as being "the period of time between two menstrual discharges."

Q M K V B H والنفس دم يعقب الولد وحكمه حكم الحيض  
Q M K V B H ولا حد لأقله وأكثره أربعون يوما  
وما تراه الحامل حال الحمل وعند الوضع قبل خروج أكثر  
الولد استحاضة  
Q - - V - - وان زاد على أكثره ولها عادة فالزائد عليها استحاضة  
Q M K V B H والا فالزائد على الأكثر فقط استحاضة  
والعادة تثبت وتنتقل بمرة في الحيض والنفس  
- - - - - عند أبي يوسف وبه يفتي  
- - - - - وعندها لابد من المعاودة  
Q M K V B - نفاس تؤامين من الأول خلافاً لحمد  
Q M K V B - وانقضاء العدة من الأخير اجطاء  
والسقطان ظهر بعض خلقه فهو ولد تصير به أمه نفساً  
والامة أم ولد<sup>1</sup> ويقع الطلاق المعلق بالولد وتنقضي  
- M K V - - به العدة  
ودم الاستحاضة كغاف دائم لا يمنع صلاة ولا صوماً  
- - K V - H ولا وطناً<sup>2</sup>

1) Umm Walad: a slave girl who has borne her master a child. This status gives her certain privileges, such as that she may not be sold, that on the death of her master she becomes free etc.

2) K uses the term jimā' instead of wat'



## فصل

الاستحاضة ومن به سلس بول او استطلا في بطن او انفلات

ريح اورعاف دائم اوجرح لا يرقأ يتوضأون لوقت

Q M K - B H

كل صلاة ويصلون به في الوقت طشاؤا من فرد ونفل

ويبطل بخروجه فقط وقال زفر بدخوله فقط وقال

Q M - V - H

ابو يوسف بايهما كان<sup>1</sup>

- M - V - H

فالتوضي وقت الفجر لا يصلي به بعد الطلوع الا عند زفر

- M - V - H

والتوضي بعد الطلوع يصلي به الظهر خلافا له ولا يي يوسف

والمعذور من لا يمضي عليه وقت صلاة الا والعذر الذي

- M - - - H

ابتلى به يوجد فيه

1) V only gives the first view and omits the rest.

## باب الانجاس

Q M K V B H

يطهر بدن الحلي وثوبه من النجس الحقيقي بالماء

Q M K V - H

وبكل مايع طاهر مزيل كالخل وماء الورد لا الدهن

- M - - - H

وعند محد لا يطهر الا بالماء

والخف ان تنجس بنجس له جرم بالدلك البالغ ان جـ ف

Q M K V B H

خلافاً لمحمد وكذا ان لم يجف عند ابي يوسف وبه يفتى<sup>1</sup>

Q - - V - H

وان يتنجس مايع فلا بد من الغسل

Q M K V B H

والمني نجس ويطهر ان يمس بالفرك والا يغسل

Q M K V B H

والسيف ونحوه بالمسح مطلقاً

Q M K V B H

والارض بالجفاف وزهاب الاثر للصلاة لا للتيمم

وكذا الاجر الفروش والخص النضوب والشجر والكلأ غير

- - - V - -

المقطوع هو المختار

- - - V - -

والمنفصل والمقطوع لا بد من غسله

Q M K V B H

وطهارة الرمي بزوال عينه ويعفى اثر شق زواله<sup>2</sup>

Q M K V B H

وغير الرمي بالغسل ثلثا او سبعا والعصر كل مرة ان امكن عصره

Q M K V B H

والا فبالجفيف كل مرة حتى ينقطع التقطر

Q - - - B H

وقال محد بعدم طهارة غير الضمير ابدا

1) Here, the principle is based on the view of Abū Yūsuf for convenience, since it happens very often. The well-known jurist, Ibn Nujaym, is also said to have given a fatwā to the same effect. H adds this view is based on istiḥsān.

2) H first classifies najāsāt as visible and invisible, then, he explains.

- - - V - -	ويطهر بساط تنجس بجري الماء عليه يوم ليلة
- - - - B -	ونحو الروث والعذرة بالحرق حتى يصبر ما داغد محد وهو
- - - V - -	الخنثار خلافا لابي يوسف
	وكذا يطهر حمار وقع في الطحاة فصار طحا
	وعفي قدر الدرهم مساحة كعرض الكف في الرقيق ووزننا
	بقدر مثقال في الكثيف من نجس مغلظ كالدم والبول
Q M K V B H	ولو من صغير لم يأكل <sup>1</sup>
	وكل ما يخرج من بدن الآدمي موجبا للتطهر والخمر
Q M - - B H	وخرى الدجاج ونحوه
Q M - - B H	وبول الحمار والهرة والفارة وكذا الروث والنجس خلافا لها
	وما دون ربع الثوب من مخفف كهول الفرس وما يؤكل لحمه
Q M K - B H	وخرى طير لا يؤكل لحمه
- M - V - -	وبول انتضج مثل رؤس الأبر عفو <sup>2</sup>
Q M K V B H	ودم السمك وخرى الطير مأكولة طاهر إلا الدجاج والبط ونحوهما <sup>3</sup>
- - K V B -	ولعاب البغل والحمار طاهر عندهما وعند أبي يوسف مخفف <sup>4</sup>
- - - V - -	وما ورد على نجس نجس كعكسه

- 1) K and V give a different view, stating the weight of intense impurity as a dirham.
- 2) K treats this as "slightly impure".
- 3) K states that the blood of fish is slightly impure but al-Ḥalabī preferred the opinion of Abū Yūsuf who held that it is clean (tāhir).
- 4) K also preferred the views of Abū Ḥanīfa and Imām Muḥammad and treated the saliva of mules and asses as clean.



ولولف ثوب طاهر في رطب نجس فظهرت فيه رطوبته ان كان بحيث  
لوعصر قطر تنجس والا فلا كما لو وضع رطبا على

- - - V - -

طين بطين نجس جاف

ولو تنجس طرف ثوبه فنتسبه وغسل طرفا بلا تحرك بطهارته  
كمسحة بالت عليها حجر تدوسها ففصل بعضها او ذهب  
طهر كلها وانفحة الميتة ولبنها طاهر خلافا لها<sup>1</sup>

- - - V - -

### فصل

والاستنجا سنة (من ما يخرج من احد السبيلين غير الريح)<sup>2</sup>

Q M K V - H

وما سن فيه عدد بل يمسه بنحو حجر حتى ينقيه

Q M K V B H

يدبر بالحجر الاول ويقبل بالثاني ويدبر بالثالث في الصيف

- - - V - -

ويقبل الرجل بالاول ويدبر بالثاني والثالث في الشتاء

- - - V - -

وغسله بالما بعد الحجر افضل (ويغسل يديه اولا ثم المخرج

Q M K V B H

بيطن اصبع او اصبعين او ثلث لا يرواها)<sup>3</sup>

- - - V - -

ويرخى مبالغة ان لم يكن صائما<sup>4</sup>

ويجب ان جاوز النجس المخرج اكثر من درهم ويعتبر ذلك مرا

Q M K V B H

موضع الاستنجا

Q M K V B H

ولا يستنحي بعظم وروث وطعام ويمينه

- M - V B -

وكره استقبال القبلة واستدبارها لبول ونحوه ولو في الخلا

1) This part is given only in B.

2) Not given in Q, K and H.

3) Only V gives the details.

4) V does not give the exception "unless he is fasting."

## كتاب الصلاة

وقت الفجر من طلوع الفجر الثاني وهو البياض المعترض في

Q M K V B H

<sup>1</sup> الافق الى طلوع الشمس

ووقت الظهر من زوالها الى ان يصير ظل كشيء مثليه

Q M K V B H

سوى في الزوال وقالا الى ان يصير مثلاً<sup>2</sup>

Q M K V B H

ووقت العصر من انتهاء وقت الظهر الى غروب الشمس

ووقت المغرب من غروبها الى مغيب الشفق وهو البياض الكائن

Q M K V B H

في الافق بعد الحرة وقالا هو الحرة قيل وبه يفتى<sup>3</sup>

Q M K V B H

ووقت العشاء والوتر من انتهاء وقت المغرب الى فجر الثاني

- - K - - H

ولا يقدم الوتر عليها للترتيب

- - K - - -

ومن لم يجد وقته لا يجبان عليه

ويستحب الاسفار بالفجر بحيث يمكن ادائه بترتيل أربعين

آية او اكثر ثم ان ظهر فساد الطهارة يمكنه الوضوء واعادته

Q M K V - H

<sup>4</sup> على الوجه المذكور

Q M K V B H

والا براد بظهر الصيف وتأخير العصر ما لم تتغير الشمس

والعشاء الى ثلث الليل والوتر الى آخره لمن يثق بالاتباء

Q M K V B H

والافضل النوم

- 1) K uses fajr al-sādiq instead of fajr al-thānī; both are used to denote the second dawn which is the appearance of the yellow gleam.
- 2) Only according to Abū Ḥanīfa the noon-prayers end when the shadows are twice as large as their objects, and this is the widely accepted view within the Hanafite rite.
- 3) According to Abū Yūsuf and Imām Muḥammad, the sunset-prayers end when the red gleam disappears; this is the accepted principle despite Abū Ḥanīfa's view.
- 4) K does not give the details.

وتعجيل ظهر الشتاء والغرب وتعجيل العصر والعشاء يوم  
الغيم وتأخير غيرهما

Q M K V B H

ومنع عن الصلاة وسجدة التلاوة وصلاة الجنازة عند الطلوع  
والاستنوا والغروب الا عصر يومه

- M K V B H

وعن التنفل وركعتي الطواف بعد صلاة الفجر والعصر<sup>1</sup>

- M K V B H

لا عن قضا فائنة وسجدة تلاوة وصلاة جنازة وعن التنفل  
بعد طلوع الفجر بأكثر من ستة وقبل الغروب ووقفت

- - K V B H

الخطبة ايا كانت وقبل صلاة العيد

- M K V - -

وعن الجمع بين صلاتين في وقت الا بعرفة ومزدلفة<sup>3</sup>

ومن طهرت في وقت عصر او عشاء صلتها فقط ومن هو

- - - V - -

أهل فرض في آخر وقت يقضيه لا من حاضته فيه

- 1) V permits performing two rak'a sunna after the daybreak-prayer, and K does not mention rak'atay al-ṭawāf.
- 2) Not given in B.
- 3) K does not mention the exceptions, in 'Arafa and Muzdalifa, and M also rules out the possibility of combining two prayers in one prayer-time during travelling, which is accepted by some other rites, such as the Shafiite.



## باب الاذان

Q M K V B H

سن<sup>1</sup> للفرائض دون غيرها<sup>2</sup>

ولا يؤذن لصلاة قبل دخول وقتها ويعاد فيه لو فعل

- - K - - H

خلافا لابي يوسف في الفجر

Q - K V B H

ويؤذن لفائنة ويقيم وكذا لاولى الفوائت وخير فيه للبواقي

- - K V B H

وكره تركهط للمسافر لالحل في بيته في الحر

- - K V B H

وندب الهمط للنساء

Q M K V B H

وصفة الاذان معروفة

Q M K V B H

ويزاد بعد فلاح اذان الفجر ( الصلاة خير من النوم ) مرتين

Q M K V B H

والاقامة مثله ويزاد بعد فلاحها ( قد قامت الصلاة ) مرتين

Q M K V B H

ويترسل فيه ويحدر فيها ويكره الترجيع والتلحين<sup>3</sup>

Q M K V B H

ويستقبل بهط القبلة

Q M K V B H

ويحول وجهه يمنة ويسرة عند حي على الصلاة وحي على الفلاح

(ويستدير في صومعة ان لم يقتدر التحول واقا)<sup>4</sup> ويجعل اصبعه

- M K - B H

في اذنيه

ولا يتكلم في اثنائيهط (ويجلس بينهط الا في الغرب فيفصل

Q M K V B H

بسكنة وقالا بجلسة خفيفة)<sup>5</sup>

1) Q defines it as sunnat al-mu'akkada.

2) B and H add "... also for Friday prayers."

3) al-talhīn, to make the words into a tune, is not mentioned in Q, M and H.

4) This part is given only in H.

5) Q does not give this part.

واستحسن التأخرون التثيب في كل الصلوات ويؤذن

ويقيم على طهر<sup>1</sup>

- - - V B -

وجاز أذان الحدث وكره أقامته وأذان الجنب ويعاد

- - K V B H

كأذان المرأة (والمجنون والسكران)<sup>2</sup> ولا تعاد الإقامة

- - - V - -

ويستحب كون المؤذن عالماً بالسنة والاولات<sup>3</sup>

- - K - B -

وكره أذان الفاسق والصبي والقاعد

- - K - B -

لا أذان العبد والاعرابي والاعى وولد الزنا

- - - V - -

وإذا قال حى على الصلاة قام الامام والجمعة

- - - V - -

وإذا قال قد قامت الصلاة شرعوا

- M - - - -

وان كان الامام غائبا او هو المؤذن لا يقومون حتى يحضر

1) al-tathwīb here denotes the calling of the mu'adhdhin between the adhān and iqāma, such as saying "prayers! prayers!" This way was adopted by the muta'akhkhirūn.

2) Missing in B and H.

3) Only V gives this principle but does not mention the word al-sunna.

4) B mentions only al-ṣabiyy and V mentions al-fāsiq.

باب شروط الصلاة

Q M K V B H	هي طهارة بدن الحلي من حدث وخبث وثوبه ومكانه <sup>1</sup>
Q M K V B H	وستر عورتته واستقبال القبلة والنية
Q M K V B H	وعورة الرجل من تحت سرتته الى تحت ركبتيه
Q M K V B H	والأمة مثله مع زيادة بطنها وظهرها
Q M K V B H	وجميع بدن الحرة عورة الا وجهها وكفيها وقدميها في رواية
- M K V B H	وكشف ربيع عضو هو عورة يمنع كاللبطن والفخذ والساق وشعرها النازل
- - - - B -	وزكركه بفردته والانشين وحدهما وحلقة الدبر بفردتها
- - - - B -	وعند أبي يوسف انما يمنع انكشاف الاكثر وفي النصف عنه روايتان <sup>2</sup>
- - - - - H	وعاد ما يزيل به النجاسة صلى معها ولا يعمد
- M K V B -	ولو وجد ثوبا ربعه طاهر وصلّى عاريا لا يجزئه
- M K V - -	وفي أقل من ربعه مخير والأفضل الصلاة به وعند محمد تلزم
Q M K V B H	وان لم يجد ما يستتر عورته فصلّى قائما بركوع وسجود جاز
Q M K V B H	والأفضل ان يصلّى قاعدا بايما
- - - - B H	وقبله من بمكة عين الكعبة ومن بعد جهتها
- - - - B H	فان جهلها ولم يجد من يسأله عنها تحرى وصلّى فان علم بخطئه
- - - - B H	بعدها لا يعمد

- 1) H gives the Qur'anic verses; (74:4-5) "... Thy raiment purify. Pollution shun!"
- 2) Here al-Halabī advises his reader that there are two reports from Abū Yūsuf, one of which holds that if most of a private part (above mentioned) of one's body is uncovered, this prevents the person from offering his prayer. The second report suggests only half of a part instead of "most of it." However, our author does not make any preference and leaves the choice to the reader.



Q M K V - H

وان علم به فيها استدار وبني وكذا ان تحول رايه

Q M K V - -

وان شرع بلا تحر لا نحوز وان اصاب وعند ابي يوسف ان اصاب جازت

وان تحرى قوم جهات وجهلوا حال اطمهم جازت صلاة من لم يتقدمه

- - - - B H

بخلاف من تقدمه أو علم حاله وخالفه

Q M K V - -

وقبله الخائف جهة قدرته

Q M K V - -

ويصل قد قلبه الصلاة بتحريضها

Q M K V - -

وضم التلغظ الى القصد أفضل

Q M K V B -

ويكفي مطلق النية للنفل والسنة والترايح في الصحيح

Q M K V B -

وللفرض شرط تعيينه كالعصر مثلا

- - - - B H

والمقتدى ينوى القابعة ايضا

- - K - - -

وللجنازة ينوى الصلاة لله والدعاء للميت

- - - - B -

ولا يشترط نية عدد الركعات

### باب صفة الصلاة

Q M K V B H

فرضها<sup>1</sup>: التحريمة وهي شرط

Q M K V B H

والقيام والقراءة<sup>2</sup> والركوع والسجود والقعود الاخير قدر التشهد وهي أركان

Q M K V B H

والخروج بضمه فرض خلافا لهما

Q M K V B H

وواجبها قراءة الفاتحة وضم سورة وتعيين القراءة في الاولين

1) Q and M do not classify these acts as fard, wājib but give the description of the prayers from the beginning to the end.

2) The recitation is defined in B as being at least three short verses or one long verse from the Qur'ān.

Q M K V B H	ورعاية الترتيب <sup>1</sup> في فعل مكرر وتعديل الاركان وعند ابي يوسف هو فرض
Q M K V B H	والقعود الاول والتشهدان ولفظ السلام وقوت الوتر
- - K V - H	وتكبيرات العيدين والجهر في محله والاسرار في محله
	وسننها رفع اليدين للتحريمه ونشر اصابعه وجهر الامام بالتكبير
	والثنا والتعوذ والتسمية والتأمين سرا ووضع يمينه على
	يساره تحت سرتيه وتكبير الركوع وتسبيحه ثلثا والرفع منه
	واخذ ركبتيه بيديه وتفريج اصابعه وتكبير السجود وتسبيحه
	ثلثا ووضع يديه وركبتيه وافتراش رجله اليسرى ونصب اليمنى
Q M K V B H	والقومة والجلسة والصلاة على النبي صلى الله تعالى عليه وسلم <sup>2</sup> والتعا
	وآدابها نظره الى موضع سجوده وكظم فمه عند الثنا وبواخراج
Q M K V - -	كفيه من كفه عند التكبير ودفع السعال ما استطاع
Q M K V - -	والقيام عند حي على الصلاة وقيل عند حي على الفلاح <sup>2</sup>
Q M K V - -	والشروع عند قد قامت الصلاة

- 1) Tartīb literally means "the order". Here it denotes the order of the acts in prayers according to the prescribed formula.
- 2) As al-Ḥalabī indicated in his introduction (p.2) the view which is qualified by qīla (it is said..) is weaker and less preferable than the preceding view. Therefore, here, the first view is given as being the more acceptable one by the author.

# فصل<sup>1</sup>

ينبغي الخشوع في الصلاة

- M - - - -

واذا اراد الدخول فيها كبر حازفا بعد رفع يديه ( محاذيا بابها ميه

Q M K V B H

شحتي اذنيه وقيل ماسا وعند ابي يوسف يرفع مع التكير لاقبله<sup>2</sup>

- M - - B H

والمرأة ترفع هذا منكبها

- - - - B H

ومقارنة تكبير المومتم تكبير الاطام افضل خلافا لها

ولو قال بدل التكبير الله اجل او اعظم او الرحمن اكبر او لا اله الا الله

Q - K - B H

او كبر بالفارسية صح

Q - K - - H

وكذا لو قرأ بها عاجز عن العربية او ذبح وسى بها

- - - - B H

وغير الفارسية من اللسن مثلها في الصحيح

- - K - - H

ولو شرع باللهم اغفر لي لا يجوز

- - - - - H

وقال أبو يوسف ان كان يحسن التكير لا يجوز الا به

Q M K V B H

ثم يعتد بيمينه على راسه يساره تحت سترته في كل قيام سن فيه ذكر

- - - - - H

وعند محمد في قيام شرع فيه قراءة

- - - - - H

فيضع في القنوت وصلاة الجنازة خلافا له

- - - - - H

ويرسل في قومة الركوع وبين تكبيرات العيد انفاظ

Q M - - B H

ثم يقرأ سبحانك الخ ولا يضم وجهته وجهي الخ خلافا لابي يوسف

1) Although the main points are given in all sources, none of them give a detailed description of these acts as is given in the Multaqā. The nearest version is that of al-Marghinānī.

2) Not given in K and V.



- - K - B H

- - - - B H

- - - - B -

- - - - B H

Q M K V B H

Q M K V B H

Q M K V B H

- M K - B H

- - K - B H

Q M K V B H

ثم يتعمد سرا للقراءة فيأتي به المسبوق عند قضا ما سبق لا المقدي

ويؤخر عن تكبيرات العيد وعند أبي يوسف هو تبع للثنا

فيأتي به المقدي ويقدم على تكبيرات العيد ويسمى سرا أول كل

ركعة لا بين الفاتحة والسورة خلافا لمحمد في صلاة المخافة

وهي آية من القرآن أنزلت للفصل بين السور ليست من الفاتحة ولا من كل سورة

ثم يقرأ الفاتحة وسورة أو ثلث آيات

وإذا قال الإمام ولا الضالين أمن هو والمؤمن يكبر راکما ويعتمد

بيديه على ركبتيه ويفرج أصابعه باسطا ظهره غير رافع

رأسه ولا منكسره ويقول ثلث مرات سبحان ربي العظيم وهو

أدناه ويستحب الزيادة مع الايتار للمفرد

ثم يرفع الإمام رأسه قائلا (سمع الله لمن حمده) ويكتفي به

وقال يضم اليه (ربنا لك الحمد)

ويكتفي المقدي بالتحميد اتفاقا

والمفرد يجمع بينهما في الأصح وقيل كالمقدي

ثم يكبر ويسجد فيضع ركبتيه ثم يديه ثم وجهه بين كفيه ضامًا

أصابع يديه محاذية أذنيه وييدي ضبعيه ويجافي بطنه عن

فخذه ويوجه أصابع رجليه نحو القبلة

- 1) al-Masbūq literally means "he who is preceded". It is used as a technical term to denote a person who missed some part of a prayer which is offered in jama'a.

Q M K V B H

والمرأة تنخفض وتلزم بطنها بفخذيهما

Q M K V B H

ويقول (سبحان ربي الأعلى) ثلثا وهو أدناه

ويسجد بأنفه وجهته فان اقتصر على احد هـ او على كـ العمامة

Q M K V B H

جاء مع الكراهية<sup>1</sup>

Q - - - B H

وقال لا يجوز الاقتصار على الانف من غير غذر

ويجوز على فاضل ثوبه وعلى شئ يجد حجه وتستقر جبهته عليه

Q - - - - H

لا على ما لا تستقر

- - - - B -

وان سجد للزحمة على ظهر من هو معه في صلاته جاز

- - - - B -

و هي تتم بالرفع عند محد وعبد ابي يوسف بالوضع

Q M K V B H

ثم يرفع رأسه مكبرا ويجلس طمنا ويكبر ويسجد طمنا

ثم يكبر للنهوض فيرفع وجهه ثم يديه ثم ركبتيه وينهض قائما من

Q M K V B H

غير قعود ولا اعتماد بيديه على الارض

Q - K V B H

والثانية كالاولى الا انه لا يثنى ولا يتعوز ولا يرفع الا في (فقعس صمغ)<sup>2</sup>

فاذا رفع رأسه من السجدة الثانية من الركعة الثانية افترض رجله اليسرى

فجلس عليها ونصب يمينه نكبا ووجه اصابعها نحو القبلة ووضع

Q M K V B H

يديه على فخذه وبسط اصابعه موجهة نحو القبلة

1) Jāza ma'a-l-karāha; a technical term which means that neither punishment nor reward is attached to an act. In other words, allowed in spite of some disapprobation attaching to it, so that it should be avoided if possible.

2) This is given only in H. These letters indicate seven occasions mentioned in a tradition when the hands should be raised, such as iftitah, opening the prayers, 'īdān, two festivals, etc. For the text of the tradition see Majma' al-Anhur, I, 14

وقرأ تشهد ابن مسعود رضي الله تعالى عنه وهو ( التحيات لله  
والصلوات والطيبات السلام عليك ايها النبي ورحمة الله وبركاته  
السلام علينا وعلى عباد الله الصالحين أشهد ان لا اله الا الله

وأشهد ان محمدا عبده ورسوله

ولا يزيد عليه في العقدة الاولى

ويقرأ فيم بعد الاولين الفاتحة خاصة وهي أفضل وان سبح أو سكت جاز

والقصود الثاني كالأول

والمرأة تتورك فيمط وهو ان تجلس على اليتها اليسرى وتخرج

كنا رجليها من الجانب الايمن

فاذا أتم التشهد فيه صلى على النبي عليه السلام بطاء يشبه ألفاظ

القرآن والأدعية الطائفة لا بطاء يشبه كلام الناس

ثم يسلم عن يمينه مع الإمام فيقول (السلام عليكم ورحمة الله)

وعن يساره كذلك

وينوي الإمام به من عن يمينه ويساره من الحفظة<sup>1</sup> والناس الذين معه

في الصلاة والمقتدى كذلك

وينوي الإمام في الجانب الذي هو فيه وفيه ان حاذاه

والمنفرد<sup>2</sup> الحفظة فقط

Q M K V B H

Q M K V B H

Q - - - - -

Q M K V B H

Q - K V B -

Q M K V - H

Q M K V B H

Q - K V B H

Q - K V B H

Q - K V B H

1) al-Hafaza; guardian angels whose task is to write down man's actions, good and bad.

2) al-Munfarid is derived from infarada, to be single, alone, and denotes a person praying alone i.e. without a prayer-leader. This differs from a person following a prayer-leader or praying in congregation.



## باب الترتيب والنوافل

الترتيب واجب وقال سنة<sup>1</sup>

- - K V B H

Q - K V B H

وهو ثلاث ركعات بسلام واحد

ويقرأ في كل ركعة من الفاتحة وسورة ويقت في ثلثه دائما

Q - K V B H

قبل الركوع بعد ما كبر ورفع يده

Q - - - B -

ولا يقت في صلاة غيرها

- - K - B H

ويتبع المأمم كانت الترتيب ولو بعد الركوع

- - K - - -

ولا يتبع كانت الفجر خلافا لابي يوسف بل يقف ساكنا في الأظهر

Q M K V B H

والسنة قبل الفجر وبعد الظهر والغروب والعشاء ركعتان<sup>2</sup>

Q M K V B H

وقبل الظهر والجمعة وبعد أربع

- - - - B -

وعند ابي يوسف بعد الجمعة ست

- M K V B H

وندى الأربع قبل العصر ( او ركعتان والست بعد المغرب )<sup>4</sup>

Q M K V B H

والأربع قبل العشاء وبعدها

Q M K V - H

وكره الزيادة على أربع بتسليمة في نفل النهار

Q M K V B H

لا في نفل الليل الرثان خلافا لها<sup>5</sup>

Q M K V B H

ولا يزداد على الرثان والأفضل فيها رباغ وقال في الليل الثني أفضل

- M K - - -

وطول القيام أفضل من كثرة الركعات<sup>6</sup>

1) K and V do not give the opinions of the two Imāms.

2) M gives the four rak'a after the Noon prayers as mustahab.

3) V uses the term hubbiba instead of nudiba and H gives the four rak'a before 'asr prayers as sunna.

4) Not mentioned in B and Q does not mention six rak'a after the Sunset prayers.

5) K and V do not state the views of the two Imāms.

6) K and M use the term sujūd instead of raka'āt.

Q M K V - H

القراءة فرض<sup>1</sup> في ركعتي الفرض وكل النفل والنذر

ويلزم ان تمام نفل شرع فيه قصدا ولو عند الطلوع والغروب

- - K V - H

لا ان شرع ظانا انه عليه

ولو نوى اربعا وأنسد بعد القعود الاول أو قبله قضى ركعتين

Q - K - - H

وقال ابو يوسف يقضى اربعا لو أنسد قبله<sup>2</sup>

- - K V B H

وكذا الخلاف لو جرد الرابع من القراءة او قرأ في احدى الاخيرين فحسب

ولو قرأ في الاولين او الاخيرين فقط او تركها في احدى الاولين أو

- - K V B H

احدى الاخيرين فقط قضى ركعتين اتفاقا

ولو قرأ في احدى الاولين لا غير او في احدى الاولين واحدى

- - K - - H

الاخيرين قضى اربعا وقال محمد يقضى ركعتين

- - - - B H

ولو ترك القعدة الاولى فيه لا يبطل خلافا لمحمد<sup>3</sup>

- - - - - H

ولو نذر صلاة في مكان فاداهها في ارضى شرفا منه جاز

- - - - B -

ولو نذرت صلاة اوصوط في غد فحاضت فيه لزمها القضاء

- - - - B -

ولا يصلي بعد صلاة مثلها

Q - K V B H

وصح النفل قاعدا مع القدرة على القيام

Q - K V B H

ولو قعد بعد ما افتتحه قائما جاز ويكره بلا عذر وقالا لا يجوز الا لعذر<sup>4</sup>

ويتنفل راكبا خارج الحرم موميا الى اى جهة توجهت رايته وبني بنزوله

Q - K V B H

خلافا لابي يوسف وبركوه لا يسنى

1) Q and M use the term wājib instead of fard.

2) The view of Abū Yūsuf is not given in Q and K.

3) In B, the view of Imām Muḥammad is preferred to others.

4) The view of the two Imāms is not given in K and V.

In this chapter, B states that the prostration of gratitude is not lawful, but this is omitted by al-Ḥalabī.

فصل

Q M K V B H التراويح سنة مؤكدة<sup>1</sup> في كل ليلة من رمضان بعد العشاء قبل النوم بعد  
 Q M K V B H بجماعة عشرون ركعة بعشر تسليطات وجلسة بعد كل أربع بقدرها  
 - M K - - - والسنة فيها الختم مرة (فلا يترك لكسل القوم)<sup>2</sup>  
 Q M K V B H (وتكره قاعدا مع القدرة على القيام) ويؤخر بجماعة في رمضان فقط  
 - - - - - H والافضل في السنن المنزل الا التراويح

فصل

Q M K V B H يصلي امام الجماعة بالناس عند كسوف الشمس ركعتين في كل ركعة ركوع واحد  
 Q M K V B H ويطيل القراءة ويخفيها وقل لا يجهر ثم يدعو بعد هذا حتى تنجلي الشمس  
 Q M K V B - ولا يخطب فالم يحضر صلوا فرادى ركعتين أو أربعاً كالخسوف والظلمة والريح والفرع<sup>4</sup>

فصل

Q M K - B H لا صلاة بجماعة في الاستسقاء<sup>5</sup> بل هو دعاء واستغفار فان صلوا فرادى جاز  
 Q - - - B H وقال يصلي الامام بالناس ركعتين يجهر فيهما بالقراءة  
 Q - - - B H ويخطب بعد هذا خطبتين كالعيد عند محمد وعند أبي يوسف خطبة واحدة  
 Q - - - B H ولا يقرب القوم أريدتهم ويقرب الامام عند محمد  
 Q M K - B H (ويخرجون ثلاثة أيام فقط) ولا يحضره أهل الذمة

- 1) Q and H use the term mustahab instead of sunnatun mu'akkadatun.
- 2) This part is not given in the sources.
- 3) Mentioned only in M.
- 4) H adds that congregation is not essential for the prayers when there is a lunar eclipse. K explains that prayers when there is darkness, a storm or fearfulness may be offered individually but prayers when there is a solar eclipse must be performed in congregation.
- 5) al-Istisqā' technically means to ask or to pray for rain.



باب صلاة المريض

Q M K V B H

عجز عن القيام او خاف زياد فالعرض بسببه صلى قاعدا يركع ويسجد  
وان تعذر الركوع والسجود اوى<sup>1</sup> برأسه قاعدا وجعل سجوده

Q M K V B H

اخفض ولا يرفع الى وجهه شيئا للسجود

Q M K V B H

فان فعل فهو يخفض رأسه صح ايما والا فلا يصح

Q M K V B H

وان تعذر القعود اوى مستلقيا رجلاه الى القبلة وضطجعا ووجهه اليها

Q M K V B H

وان تعذر الايما برأسه اخرت ولا يومي بعينه ولا بحاجبيه ولا بقلبه

وان قدر على القيام وعجز عن الركوع والسجود يومي قاعدا (وهو افضل

Q M K V B H

من الايما قائما)<sup>2</sup>

- M K - B H

ولو مرض في اثنا الصلاة بنى بط قدر

Q M K V B H

ولو افتتحها قاعدا يركع ويسجد فقدر على القيام بنى فأنطو قال محمد يستأنف<sup>3</sup>

Q M - V B H

وان افتتحها بايما فقدر على الركوع والسجود استأنف

وللخطوع ان يتكى على شئ ان اعى ولو صلى في فلك جار قاعدا بلا

- - K V - H

عذر صح خلا فاليهما<sup>4</sup>

- - - V - -

وفي المربوط لا يجوز بلا عذر

Q M K V B H

ومن اغنى عليه اوجن يوما وليلة قصى

Q M K V B H

وان زاد ساعة لا يقضى وعند محمد يقضى ما لم يدخل وقت سادسة<sup>5</sup>

1) Awma'a fourth form of wama'a, to make signs with the head. Here, in the text, it means to indicate the prayer-postures with gestures of the head only.

2) Not in K.

3) In B the view of Imām Muḥammad is preferred.

4) K and V omit the views of the two Imāms.

5) K and V do not give the opinions of the two Imāms on this principle.

## باب الجمعة

لا تصح الالبسة شروط الصرا وفناؤه والسطان او نائبه ووقت الظهر

Q M K V B H

والخطبة قبلها في وقتها والجماعة ( والاذن العام )<sup>1</sup>

- - K - - H

والصرك موضع له امير وقاض ينفذ الاحكام ويقيم الحدود<sup>2</sup>

وقيل طالوا اجتماع أهله في اكبر مساجده لا يسمعهم وفناؤه طالت به معدا

- M - V - H

لصالحه<sup>3</sup>

وتصح في صر في مواضع هو الصحيح وعن الامام في موضع فقط<sup>4</sup> وعند

- - K - B -

ابي يوسف في موضعين ان حال بينهما نهر

ومنى صر (في الموسم تصح الجمعة فيها للخليفة أو امير الحجاز

- - K V - H

لا لأمير الموسم)<sup>5</sup> ولا بعرفات

Q - - - B H

وفرض الخطبة نسيحة أو نحوها وعندها لا بد من ذكر طول يسنى خطبة

وستنها أن يخطب قائما على طهارة خطبتين ويفصل بينهما بجلسة

مشتنتين على تلاوة آية والايماء بالتقوى والصلاة على النبي عليه

Q M K - B H

السلام فيكره ترك ذلك

Q M K V B H

وأقل الجماعة ثلثة سوى الامام وعند ابي يوسف اثنان<sup>6</sup> وقيل محذومه

- - K V - H

فلو نفرؤا قبل سجوده يستأنف الظهر

- - - - - H

وعندها لا يستأنفها الا ان نفرؤا قبل شروعه

1) Not mentioned in Q, M, B and H. Some of the sources do not enumerate six, but give the same account.

2) H states that this is the view of Abū Yūsuf and that it was preferred by al-Karkhī.

3) H holds that this view is the choice of al-Thaljī.

4) This is the view of Imām Muḥammad and is preferred to that of Abū Ḥanīfa and Abū Yūsuf.

5) Not in K.

6) K and V do not give the views of the two Imāms, and M does not offer any number.

Q - K - - H

وتبطل بخروج وقت الظهر

وشروط وجوبها ستة الإقامة بصر والذكوة والصحة والحرية وسلامة

العينين والرجلين فلا تجب على الأعمى وإن وجد قائدا خلافا

Q M K V B H

لهما وكذا الخلاف في الحج

- - - - B -

ومن هو خارج الحصران سمع النداء تجب عليه عند محط وبه يفتى<sup>1</sup>

Q M K - - H

ومن لا جمعة عليه أن أراها اجزأته عن فرض الوقت

Q M K - B H

وللسافر والعبد والعريض لن يؤم فيها وتنعد به

ومن لا عذر له لو صلى الظهر قبلها جازع الكراهة ثم إذا سمى

اليها والامام فيها يبطل ظهره وقالا لا يبطل ما لم يدرك الجمعة

Q M K V B H

وينشرع فيها

Q M K V - H

(وكره للمعذور<sup>2</sup> المسجون إذا) الظهر في جطة في الحري يومها

Q - K V B H

ومن أدركها في التشهد أو سجود السهو يتم الجمعة

Q - - - - B H

وقال محد يتم ظهرا إن لم يدرك أكثر الثانية

Q M K V B H

وإذا خرج الامام فلا صلاة ولا كلام حتى يفرغ من خطبته

- - - - B H

وقالا يباح الكلام بعد خروجه ما لم تشرع في الخطبة<sup>3</sup>

Q - K V - H

ويجب السعى وترك البيع بالأذان الأول<sup>4</sup>

فإذا جلس على المنبر أذن بين يديه ثانيا واستقبلوه مستمعين

Q M K V - H

مستمعين إذا أتم الخطبة أقيمت

- 1) This view of Imām Muḥammad again is accepted as a principle despite other views.
- 2) Only this part mentioned in B.
- 3) B adds "We (the Hanafites) also prohibit returning one's greetings during the khutba, the sermon."
- 4) H gives the Qur'anic verse: (62:9) "O ye who believe! When the call is heard for the prayer of the day of congregation (jumu'a) haste unto remembrance of Allah and leave your trading."

V in this chapter adds that anybody who is eligible to be Imām for other prayers is also eligible to lead the Friday-Prayers.



باب العیدین

نحب صلاة العید

- M K - B H

- M K V - H

وشرائطها كشرائط الجمعة وجبها واداء سوى الخطبة

وتدب<sup>1</sup> في الفطر أن يأكل شيئاً<sup>2</sup> قبل صلاته ويستاك ويفتسل

Q M K V B H

وينطيب ويلبس أحسن ثيابه ويؤدى فطرته ويتوجه الى الحل

Q - K V B H

ولا يجهر بالتكبير فطريقه خلافا لها<sup>3</sup> ولا يتنفل قبلها

Q M K V B H

ووقتها من ارتفاع الشمس (قد رجع اورمحين)<sup>4</sup> الى زوالها

وصفتها ان يصلى ركعتين يكبر تكبيرة الاحرام ثم يثنى ثم يكبر ثلثا

ثم يقرأ الفاتحة وسورة ثم يركع ويسجد ويبدأ في الثانية بالقراءة

Q M K V B H

ثم يكبر ثلثا ثم اخرى للركوع ويرفع يديه في الزوائ<sup>5</sup>

Q M K V B H

ويخطب بعدها خطبتين ليعلم الناس فيها احكام الفطرة

Q - K V B H

ولا تنقضى ان فاتت مع الامام<sup>6</sup>

Q M K V B H

وان منع عذر عنها في اليوم الاول صلوا في الثاني ولا تنصلى بعده

والاخص كالفطر لكن يستحب تأخير الاكل فيها الى ان يصلى (ولا يكره

Q M K V B H

قبلها في المختار)<sup>7</sup>

ويجهر بالتكبير في طريق الحل ويعلم في الخطبة تكبيرات التشريق

Q M K V B H

والاضحية ويجوز تأخيرها الى الثاني والثالث بعذر ومغير عذر<sup>8</sup>

Q - K V - H

والاجتماع يوم عرفة تشبها بالواقين ليس بشئ

1) Q, M and H use the term yustahabbu and V uses hubbiba instead of nudiba.

2) M adds that to eat something sweet is recommended, such as dates or raisins.

3) K does not indicate the view of the two Imāms.

4) Given only in B and H.

5-6) This paragraph is given briefly in K.

7) K does not give this mukhtār view.

8) Not in Q and K.

ويجب تكبير التشريق من فجر عرفة الى عريوم العيد على المقيم بالحر

Q M K V B H

عقيب فرض أدي بجمعة مستحبة وبالاقتداء يجب على المرأة والمسافر

Q M - V B H

وعندها الى عصر آخر ايام التشريق على من يصلي الفرض وعليه العطل<sup>1</sup>

وصفته أن يقول مرة ( الله اكبر الله اكبر لا اله الا الله والله اكبر

Q M - V B H

الله اكبر والله الحد)

- - - V - H

ولا يتركه المؤمن ان تركه امامه

### باب صلاة الخوف

ان اشتد الخوف من عدو او سبع جعل الامام طائفة بازا العـ

Q M K V B H

وصل بطائفة ركعة ان كان مسافرا او في الفجر

Q M K V B H

وركعتين ان كان مقبلا او في المغرب

Q M K V B H

وضعت هذه الى العدو وجاءت تلك الطائفة وصل بهم طبقى وسليحه

ونهبوا الى العدو وجاءت الطائفة الاولى وأنما بالقراءة ثم الطائفة

Q M K V B H

الاخرى وانما بقراءة

Q M K - B H

( ويطلبها النسي والركوب)<sup>2</sup> والمقاتلة

وان اشتد الخوف وعجزوا عن الصلاة بهذه الصفة صلوا وحدانا ركبانا

Q M K V B H

يومنون الى أي جهة قرأوا ان عجزوا عن التوجه

- - K - - -

ولا تجوز بلا حضور عدو

- - - - B -

وابو يوسف لا يجيزها بعد النبي عليه الصلاة والسلام

1) The sources do not qualify it "wa 'alayhi al-'amal". In the chapter of Festival-Prayers M and H add that if people witness the appearance of the new moon after the noon time they should offer the Festival-Prayers the following day since it would be too late on that day. However al-Halabī omits this information.

2) Not in Q, K and B.

## كتاب النكاح

- - K - - -	هو عقد يرد على ملك المنعة قصدا
- M K - B -	يجب عند التوقان
- M - - B -	ويكره عند خوف الجور
- M K - B -	ويسن مؤكدا حالة الاعتدال
	وينعقد بايجاب وقبول كلاهما بلفظ الطاهي أو أحدهما كزوجني فيقول
Q M K V B H	زوجت ( وان لم يعلط معناهما ) <sup>1</sup>
- - - V - -	ولو قال رادي أو بذيرفتي فقال رادا وبذيرفت بلا ميم صح كبيع وشرا
- - - V - -	ولو قال عند الشهود طزن وشيم لا ينعقد
	وانما يصح بلفظ نكاح وتزويج <sup>2</sup> وما وضع لتطيك العين في الحال كبيع
Q M K V B H	وشرا وهبة وصدقة وتطيك
Q - - V B H	لا باجارة واباحة واعارة ووصية
- - - V - -	وشروط سماع كل من العاقلين لفظ الآخر
Q M K V - -	( وحضر حرين أو حر وحرتين ) <sup>3</sup> مكفين <sup>4</sup> مسلمين
- M K V - -	ان كانت الزوجة مسلمة سامعين معا لفظها
- M K V - -	فلا يصح ان سمعا منفردين

- 1) This part is given only in V.
- 2) B does not provide the following examples but only states the main principle saying "We (the Hanafites) do not limit it to the terms or nikāh and tazwīj."
- 3) Only this part is given in B.
- 4) H uses 'āqil and bāligh instead of mukallaf.



Q M K V B H

- - K V - -

- - K V - -

Q M K V B H

- M - V - -

وجاز كونها فاسقين او محدودين في قذف<sup>1</sup>

( او أعميين )<sup>2</sup> او ابني العاقدين او ابني احدهما

ولا يظهر بشهادتهما عند دعوى القريب

وصح تزويج مسلم ذمية عند زمين خلافا للحمد<sup>3</sup>

ولا يظهر بشهادتهما ان ادعت

ومن امر رجلا ان يزوج صغيرته فزوجها عند رجل صح ان كان

الأب حاضرا والا لا<sup>4</sup>

- M K V - H

- M - V - -

وكذا لو زوج الأب بالفتنة عند رجل ان حضرت صح والا فلا

1) M puts this principle in another phrase: " ... being just is not required as a condition of witnesses."

2) Only this part is mentioned in M and B.

3) B gives this in another phrase: "We (the Hanafites) permit the marriage contract of dhimmīs without witnesses."

4) V uses the terms nikāh and tankiḥa instead of tazwīj and tazawwaja.

باب المحرمات

Q M K V B H	يُحْرَمُ عَلَى الرَّجُلِ أُمُّهُ وَجَدَّتُهُ وَإِنْ عَلَتْ <sup>1</sup>
Q M K V B H	وَبَنَّتُهُ وَبَنَتُ وَلَدَهُ وَإِنْ سَفَلَتْ
Q M K V B H	وَإِخْتَهُ وَبَنَّتُهَا وَبَنَتُ أَخِيهِ وَإِنْ سَفَلْنَا
Q M K V B H	وَعَمَّهُ وَخَالَتَهُ وَأُمُّ امْرَأَتِهِ مَطْلَقًا
Q M K V B H	وَبَنَتُ امْرَأَةٍ دَخَلَ بِهَا
Q M K V B H	وَامْرَأَةُ أَبِيهِ وَإِنْ عَلَا
Q M K V B -	وَلَبَنَهُ وَإِنْ سَفَلُ وَالْكَلْ رِضَاعًا <sup>2</sup>
	وَالْجَمْعُ بَيْنَ الْأَخْتَيْنِ نِكَاحًا وَلَوْ فِي عِدَّةٍ مِنْ بَابَيْنِ <sup>3</sup> (أَوْ رَجَعِي أَوْ طَلَّقَا
Q M K V B H	بَطْلًا يَمِينًا) <sup>4</sup>
- - K V - H	فَلَوْ تَزَوَّجَ اخْتَاهُ الَّتِي وَطَّئَهَا لَا يَطَأُ وَاحِدَةً مِنْهُمَا حَتَّى تَحْرُمَ الْآخَرُ
	وَلَوْ تَزَوَّجَ اخْتَيْنِ فِي عَقْدَيْنِ وَلَمْ تَعْلَمْ الْأُولَى فَرَقَ بَيْنَهُ وَبَيْنَهُمَا وَلَهُمَا
- M K V B H	نِصْفُ الْمَهْرِ
- - K V - H	وَالْجَمْعُ بَيْنَ امْرَأَتَيْنِ لَوْ فُرِضَتْ أَحَدُهُمَا ذَكَرًا يُحْرَمُ عَلَيْهِ الْآخَرُ
Q - - V - H	بِخِلَافِ الْجَمْعِ بَيْنَ امْرَأَةٍ وَبَنَتِ زَوْجِهَا لَا مِنْهَا
Q M K - B H	وَالزَّنا يُوجِبُ عِرْمَةَ الْحَاوِرَةِ
- M K V - H	وَكَذَا الصُّبْحُ بِشَهْوَةٍ مِنْ أَحَدِ الْجَانِبَيْنِ

- 1) V uses the terms aşluhu wa far'uhu.
- 2) B adds; "with the exception of the mother of a brother and the sister of a son."
- 3) B adds "the waiting period ('idda) of the umm walad when she is divorced, prevents the husband from getting married to her sister."  
H adds the Qur'anic verse (4:23): "... And (it is forbidden unto you) that ye should have two sisters together, except what hath already happened in the past."
- 4) Not in Q.

- M K V B H

وكذا نظره الى فرجها الداخل ونظرها الى ذكره بشهوة<sup>1</sup>

- - - - B -

وط دون تسع سنين غير مستهابة به . يفتى

- - - - - H

و لو انزل مع العس لا يثبت الحرمة هو الصحيح

Q M K V B H

وصح نكاح الكتابية والصابئة المؤمنة بنبي العقرة بكتاب لاعادة كوكب<sup>2</sup>

وصح نكاح المحرم والحرمة والامة الصلعة والكتابية ولو مع طول

- M K V - -

الحرمة والحرمة على الامة

Q M K V B H

واربع فقط للحر من حرائر واط<sup>3</sup> ( وللعبد شتان )

- M K V B -

وحبلى من زنا خلافا لابي يوسف

- M K V B H

ولا نوطاً حتى تضع ومطوعة سيدها او زان

ولو تزوج امرأتين بعقد واحد احديهما محرمة صح نكاح الاخرى والمسي

Q M - V B H

كه لها وعندها يقسم على مهر مثلها

Q - - V B H

ولا يصح تزوج امه او سيدته او مجوسية او وثنية

Q M - V - H

ولا خامسة في عدة رابعة اياها

Q M - V B H

ولا امة على حرة او في عدتها خلافا لها فيط اذا كانت عدة البايين

- - - V - H

ولا حامل من سي او حامل يثبت نسبها ولو من سيدها

Q M - V B H

ولا نكاح النعمة والموقت<sup>4</sup>

- 1) K does not specify the object of looking as dākhil.
- 2) K also adds the invalidity of marrying an idolatress, and Q adds that if a star-worshipper believes in a heavenly prophet with a scripture, then she is eligible for marriage.
- 3) Not mentioned in M.
- 4) Q adds that if an agent marries somebody to another person without the latter's consent the contract is void.



باب الاوليا والاكفا

Q - K V B H	نفذ نكاح حرة مكلفة بلا ولي وله الاعتراض في غير الكفو <sup>1</sup>
- - - V - -	وروى الحسن عن الامام عدم جوازه وعليه فتوى قاضيخان
- - - V B H	وعند محمد ينعقد موقوفا ولو من كفو
Q - K V - H	ولا يجبر ولي بالغة ولو بكرا
	فان استأذن الولي البكر فسكت او ضحكت او بكت بلا صوت فهو
Q M K V - H	اذن ومع الصوت رد (وكذا لو زوجها فبلغها الخبر) <sup>2</sup>
- - - V - H	وشرط فيها تسمية الزوج لا المهر هو الصحيح
- M K V - H	ولو استأذنها غير الولي الاقرب فلا بد من القول
Q M K V - H	وكذا لو استأذن الشيب
Q M K V B H	ومن زالت بكاوتها بوثبة او حيضة او جراحة او تعنين فهي بكر
Q M K V B H	وكذا لو زالت بزنا خفي خلافا لهما <sup>3</sup>
Q M K V B H	ولو قال لها الزوج سكت وقالت رددت ولا بينة له فالقول لها
Q M - - - -	وتحلف عندها لا عند الامام <sup>4</sup>
Q M - V B H	وللولي انكاح المجنونة والصغير والصغيرة ولو ثيبا <sup>5</sup>
	فان كان ابا او جدا لزم وان كان غيرها فلهما الخيار اذا بلغهما
Q M - V B H	او علما بالنكاح بعد البلوغ خلافا لابي يوسف

- 1) K gives this point without any condition in this chapter. But in the following one the right of the guardian to abrogate the marriage contract is mentioned separately. (V holds that her marriage, even in the case of inequality of the partners, is valid, but adds the right of the guardian to object to this.)
- 2) This is mentioned only in V and H.
- 3) The sources do not qualify the adultery as "secret".
- 4) Q gives priority to Abū Ḥanīfa's view; al-Ḥalabī however, prefers the view of the two Imāms which is the opposite.
- 5) K and V mention only infant boy or girl.

وسكوت البكر رضى ولا يخذ خيارها الى آخر المجلس وان جهلت  
ان لها الخيار بخلاف المعتقة وخيار الغلام والشيب

- - - V - H

لا يبطل ولو قام عن المجلس لم يرضيا صريحا او دلالة

- - - V - H

وشروط القضا للفسخ في خيار البلوغ لا في خيار العتق

- - K V - H

فان مات احدهما قبل التفريق ورثه الآخر بلغا او لا

- M K V - -

والولي هو العصبة نسبا او سببا على ترتيب الارث

- M K V - H

وابن المجنونة مقدم على ابيها خلافا لمحمد

Q M K V - H

ولا ولاية لعبد ولا صغير ولا مجنون ولا كافر على ولده المسلم<sup>1</sup>

فان لم يكن عصبة فلام ثم للاخت<sup>2</sup> لا بيمين ثم للاخت لاب ثم لسولد

الأم ثم لذوى الارحام الاقرب فالاقرب بالتزويج عند الامام

Q - K V B H

خلافا لمحمد

- - - V - H

وابو يوسف مع محمد في الاثني عشر

Q M K V B H

ثم لعولى المولاة ثم لقاض في مشورة<sup>3</sup> ذلك

وللا بعد التزويج اذا كان الاثر غائبا بحيث لا ينتظر الكفو

- - - V B H

الخاطب جوابه

وقبل مسافة السفر وقيل بحيث لا تصل القوافل اليه في السنة

Q - - - B H

الامرة (ولا يبطل بعوده)<sup>4</sup>

- M - - - -

ولو زوجها وليان ضامان فالعبرة بالاسبق وان كانا معا بطلا

- - - - -

ويصح كون المرأة وكيلة في النكاح

1) H gives the Qur'anic verse (4:141) in support of this principle which says: "Allah will not give the disbelievers any way against the believers."

2) M gives only the mother and the sister but does not elaborate.

3) Q does not mention the qādī and H gives hākim instead of qādī and supports this view with a tradition: "Persons being destitute of guardians have a guardian in the Sultan."

4) Mentioned only in K and B.

## فصل

Q M - - - H	تعتبر الكفاة في النكاح نسبا
Q - K V - H	فقرين بعضهم اكفا <sup>1</sup> بعض
- - - - - H	وغيرهم من العرب ليس كفوا لهم بل بعضهم اكفا بعض
- - - - - H	وبنوا باهلة ليسوا كفوا غيرهم من العرب
- - K V - -	ويعتبر في العجم اسلاط وحرية <sup>2</sup>
- - - - - H	فسلم أو حرا بوه كافر أو رقيق غير كفوا لمن لها اب فسي
- - - V - H	الاسلام أو الحرية
- M - V B H	ومن له أب فيه أو فيها غير كفوا لمن لها ابوان خلافا لأبي يوسف
- M - V - H	ومن له ابوان كفوا لمن لها آباء
Q M K V B H	وتعتبر ديانة خلافا لمحمد
- M - V B -	فليس فاسق كفوا لبنت صالح وإن لم يعلن في اختيار الفضلى
- M - V B -	وتعتبر مالا
- M - V B H	فالعاجز عن المهر المعجل والنعقة غير كفوا للفقيرة والقادر
- M - V B H	عليها كفوا لذات أموال عظام عند أبي يوسف خلافا لها <sup>3</sup>
Q - K V B H	وتعتبر حرفة عندها وعن الإمام روايتان
- - - - - H	فحائك أو حجام أو كناس أو دباغ غير كفوا لعطار أو بزاز أو صراف به يفتى

1) Q does not mention the Quraysh.

2) K does not mention al-'ajam.

3) M gives this paragraph very briefly.

In this chapter H gives an example of a case: "If a man contracts his infant daughter to a slave or his infant son to a female slave it is lawful. The two Imāms regard this as illegal because of the disadvantages with respect to the infant."



Q M K - B H

1 ولو تزوجت غير كفوء فللولي ان يفرق بينها

Q M K V B H

وكذا لو نكحت عن مهر مثلها له ان يفرق ان لم يتم خلافا لها

- M K - - -

وقبضه المهر وتجهيزه وطلبه بالنفقة رضى لا سكوته

- M K - - -

وان رضى احد الاولياء فليس لغيره الاعتراض

### فصل

- M K V B H

2 ووقف تزويج فضولي او فضولين على الاجازة

ويتولى طرفي النكاح واحد بان كان وليا من الجانبين او وكلا

Q M K V B -

منها او وليا واصيلا او وليا ووكيلا او وكيلا واصيلا

- M - - B -

ولا يتولاها فضولي ولو من جانب خلافا لابي يوسف

ولو امره ان يزوجه امرأة فزوجه امة لا يصح عندها و هو

- - - - - H

3 الاستحسان وعند الامام يصح

ولو زوجه امرأتين في عقدة لا يلزم واحدة منها ولو زج الاب او

الجد الصغير او الصغيرة بغبن فاحش في المهر

Q - K V B H

او من غير كفوء جاز خلافا لهما

Q - K V - H

وليس ذلك لغير الاب والجد

1) In Kashf al-Haqqā'iq (I,170) the reason for the guardian's abrogation of the marriage contract in the case of inequality of the partners is given as "to drive away the disgrace from himself."

2) H illustrates this with an example: If a man contracts a woman in marriage without her knowledge in the presence of two witnesses the validity is suspended at her consent.

3) V gives the opposite by accepting Abū Hanīfa's view. H in this chapter adds that it is lawful for a nephew to contract the daughter of his uncle in marriage with himself.

باب المهر

Q - K V B H	يصح النكاح بلا ذكره ومع نفيه <sup>1</sup>
Q M K V B H	واقله عشرة دراهم
Q M K V B H	فلوسي دونها لزمت العشرة
Q M K V B H	وان سطاها او اكثر لزم المسمى بالدخول او موت احدها
Q M K V B H	ونصفه بالطلاق قبل الدخول (والخلوة الصحيحة) <sup>2</sup>
Q M K - B H	وان سكت عنه او نفاه لزم مهر المثل بالدخول (او الموت) <sup>3</sup>
Q M K - B H	وبالطلاق قبل الدخول والخلوة شعة معتبرة بحاله في الصحيح <sup>4</sup>
	لا تنقص عن خمسة دراهم ولا تزداد على نصف مهر المثل وهي درع
Q M K - B H	.. وخطر ومطرفة
Q M K V B H	وكذا الحكم لو تزوجها بخمر او خنزير
- M K V B H	او بهذا الدن من الخل فاذا هو خمر خلافا لها
- M - V B H	وعندها لها مثل وزن الخمر خلا <sup>5</sup>
- M K V B H	او بهذا العبد فاذا هو حر خلافا لابي يوسف
- M K V B H	او بثوب او بدابة لم يبين جنسيها
- M K V B H	او بتعليم القرآن
Q M K V B H	او بخدمة الزج الحر لها سنة وعند محد لها قبة الخدمة

- 1) K does not mention wa ma'a nafyih.
- 2) Not in M, K and B, and H does not qualify it as "sahih".
- 3) Not given in B.
- 4) The sources do not qualify the statement as being sahih, and H adds the Qur'anic verse (2:236):  
" ... provide for them, the rich according to his means and the straitened according to his means, a fair provision."
- 5) V does not give the view of the two Imāms.

وكذا يجب مهر المثل في الشغار وهو ان يزوجه بنته على ان

يزوجه بنته او اخته معاوضة بالمعدين<sup>1</sup>

Q - K V B H

ولو زوجها على خدمته لها سنة وهو عبد فلها الخدمة

Q M - - - H

ولو اعتق امة على ان يزوجه فعتقها صداقها عند ابي يوسف

وعندها لها مهر المثل

- - - - B H

ولو ابتان تزوجه فعليها قيسها له اجماعا

- - - - B H

وللمفوضة ما فرض لها بعد العقد ان دخل او مات

- - - V B H

والشعة ان طلق قبل الدخول وعند ابي يوسف نصف ما فرض

Q M K V - H

وان زاد في مهرها بعد العقد لزمت

Q M - V B H

وتسقط بالطلاق قبل الدخول وعند ابي يوسف تنتصف ايضا

Q M - V - H

وان حطت عنه من المهر صرح واذا خلا بها بلا مانع من الوطى

حسا او شرعا او طبعيا كمرض يمنع الوطى<sup>2</sup> وتنفق وصوم

Q M K V B H

رخان واحرام فرض او نفل وحيض ونفاس لزمه تمام المهر<sup>2</sup>

- M K V - H

ولو كان خصيا او عنيها

Q M K V B H

وكذا لو كان مجبوا خلا فالها

- - - V - H

وصوم القضا غير مانع في الاصح

- M - V - H

وكذا صوم النذر في رواية وفرض الصلاة مانع<sup>3</sup>

1) K does not explain the shighār.

2) H gives this paragraph briefly.

3) Only the obligatory prayer is mentioned in M.



المعدة

- - K V - H تجب بالخلوة ( ولومع الطاع احتياطاً )<sup>1</sup>
- والنعة واجبة لطلقة قبل الدخول لم يسم لها مهر ومستحبة
- Q M K V - H لطلقة بعد الدخول
- M K V - H وغير مستحبة لطلقة قبله سمي لها مهر
- ولوسى لها الف وقبضته ثم وهبته له ثم طلقها قبل الدخول
- - K V B H رجع عليها بنصفه
- وكذا كل مكيل وموزون ولو قبضت النصف ثم وهبت الكل او الباقي
- - - - - H لا يرجع خلافا لهما
- ولو وهبت اقل من النصف وقبضت الباقي رجع عليها الى تمام
- - K V - H النصف وعندها بنصف المقبوض
- - - - B H ولو لم تقبض شيئا فوهبته لا يرجع احدها على الآخر
- - K - B H وكذا لو كان المهر عرضا فوهبته قبل القبض او بعده
- وان تزوجها بالف على ان لا يخرجها من البلد او على ان لا يتزوج
- Q M - - - H عليها فان وفى قلبها الالف والا فمهر المثل
- ولو تزوجها على الف ان اقام بها وعلى الفين ان اخرجها
- فان اقام قلبها الالف والا فمهر المثل لا يزداد على الفين
- M K V - H ولا ينقص عن الف وعندها الالفان ان اخرجها

1) Not in M, K and B. H explains this: "It is incumbent upon the woman to observe the 'idda', the appointed term of probation, after the divorce and khalwa (retirement of the couple) for the sake of caution, on a principle of propriety, from the apprehension of the possibility of her womb being occupied by seed.

ولوتزوجها بهذا العبد او بهذا العبد فلها الاعلى ان كان مثل مهر<sup>1</sup>  
 مثلها او اقل والادنى ان كان مثله واكثر ومهر مثلها ان كان بينهما

وعندها لها الادنى بكل حال

- M K V - H

وان طلقها قبل الدخول فلها نصف الادنى اجطاء

- - - V - H

وان تزوجها بهذين العبدين فاذا احدهما حر فلها العبد

- - - V B -

فقط عند الاطام ان ساوى عشرة

- - - - B H

وعند ابي يوسف العبد مع قيمة الحر لو كان عبدا

- - - - B H

وعند محمد العبد وتطام مهر المثل ان هواقل منه

وان تزوجها على فرس او ثوب هروى بالغ في وصفه أولا ~~خير~~

Q M K V B H

بين دفع الوسط وقيمته

- - - V - H

وكذا لو تزوجها على مكيل او موزون بين جنسه لا صفته

- - - V - H

وان بين صفته ايضا وجب هو لا قيمته

- - K - B H

وقيل الثوب مثله ان يولغ في وصفه

- - - V - -

وان شرط البكارة فوجدها شيئا لزمه كل المهر

وان انفق على قدر في السر واعلنا غيره عند العقد فالمعتبر

- - - - B -

ما اعلنناه

- - - - B -

وعند ابي يوسف ما اسراه

Q M K V B H

ولا يجب شيء بلا طلق في عقد فاسد وان خلا

1) In B another version is given as only one slave is given to the wife, then she is divorced and the slave is freed etc.

In B a dowry case is given in which someone gets married to three women by one contract. He divorces one of them with three repudiations, and the second one with one, but cohabits with the third, and, then he dies .... etc. However, this case was not taken by al-Halabī, most probably because of the very exceptional nature of the situation.

Q M K V B H	فان وطىء وجب مهر المثل لا يزداد على المسمى وعليها العدة
- - K - B H	وابتداؤها من حين التفريق لا من آخر الوطئات هو الصحيح
- - K V B H	(ويثبت فيه النسب) <sup>1</sup> وطئته من حين الدخول عند محمد
- - K V B H	وبه يفتى
Q M K V B H	ومهر مثلها يعتبر بقوم ابيها ان تساوا سنا وجلا ولاؤعقلا
- M K V - H	ودينا وبلدا وعصرا وبكارة وثيابا
- M - V - H	فان لم يوجد منهم فمن الاجانب
Q - - V - H	فان لم يوجد جميع ذلك فط يوجد منه
- - K V - H	ولا يعتبر بامها او خالتها ان لم تكونا من قوم ابيها
- - - V - H	وصح ضمان وليها مهرها وتطالب من شاءت منه من الزوج
- - - V - H	ويرجع الولي على الزوج اذا ادى ان ضمن بامرء والا فلا
- M K V B H	وللمرأة منع نفسها من الوطى والسفر حتى يوفىها قدر ما
- - - V - H	بين تعجيله من مهرها كلا او بعضا
- - - V - H	ولها السفر والخرج من المنزل ايضا <sup>2</sup>
- - - V - -	ولها النفقة لو ضمت لذلك وهذا قبل الدخول وكذا بعده
- - - V - -	خلافها فيط لو كان الدخول برضاها غير صبية ولا مجنونة
- - - V B -	وان لم يبين قدر المعجل فقدر ما يعجل من مثله عرفا
- - - V B -	غير مقدار بربع ونحوه
- - - V B -	وليس لها ذلك لو اجل كه خلافا لابي يوسف

1) Only this part is given in Q.

2) V also adds wa ziyāratu ahlihā.

B in this chapter adds that if a father becomes surety for his infant son's dowry and dies before the payment, the wife has the right to take it from the estate (tarikā).



- M - V B - و اذا اوافها ذلك فله نقلها حيث شاء ما دون السفر<sup>1</sup>
- M - V B - وقيل له السفر بها في ظاهر الرواية والفتوى على الاول<sup>2</sup>
- - K V - H وان اختلفا في قدر المهر فالقول لها ان كان مهر مثلها
- - - - B H كما قالت او اكثر وله ان كان كما قال او اقل
- - K V - H وان كان بينهما تحالفا ولزم مهر المثل
- - - - B H وفي الطلاق قبل الدخول القول لها ان كانت متعة المثل
- - K V - H كصف ما قالت او اكثر
- - - V B H وله ان كانت كصف ما قال او اقل
- - - V - H وان كانت بينهما تحالفا ولزمت المتعة
- - - - - H ( وعند ابي يوسف القول له ) قبل الدخول وبعده الا ان
- - - - - H يذكر ما لا يتعارف مهرها وايضا برهن قبل
- - - V - H وان برهننا فبيته اولى حيث يكون القول لها وبيتها اولى
- - - V - H حيث يكون القسوم له
- - - V B H وان اختلفا في اصله وجب مهر المثل
- - - V - H وموت احدهما كحياتهما
- - K V B H وفي موتها بعد الدخول وان اختلف الورثة في قدره
- - K V B H فالقول لورثة الزوجة عند الامام ولا يستثنى القليل
- - K V B H وعند محمد كالحسبة

- 1) V prefers the view expressed in zāhir al-riwāya and adds that the well-known jurist Abu 'l-Layth has given a fatwā to the same effect.
- 2) M does not mention the view given in zāhir al-riwāya which entitles the husband to take his wife to travel (over 90 km) without her consent, but gives the opposite view holding "the decision is on this."

- - - V B H وان اختلفوا في اصله يجب مهر المثل عندها وبه يفتي
- - - - B H وعند الامام القول لشكر التسمية ولا يجب شيء
- وان بعث اليها شيئا فقلت هو هدية وقال هو مهر
- - K - - H فالقول له في غير ما هي للاك
- وان نكح نفي ندية او حربي حرية ثم على ميتة او بلا مهر وذلك
- M K V - H جائز في دينهم فلا شيء لها خلافا لها<sup>1</sup>
- - K V - H سواء وطئت او طلقت قبله او طأت احدها
- وان نكحها بخر او خنزير معين ثم اسلم او اسلم احدها قبل
- M K V B H القبض فلها ذلك
- M K V B H وان كان غير معين فقيمة الخمر ومهر المثل في الخنزير
- M - - B H وعند ابي يوسف مهر المثل في الوجهين
- M - - B H وعند محمد القيمة فيهما
- وفي الطلاق قبل الدخول تجب النكحة عند من اوجب مهر
- - - - - H المثل ونصف القيمة عند من اوجبها

1) M does not mention the harbiyy and the harbiyya, but, adds that the marriage contract is valid even without witnesses or during her 'idda, the appointed term of probation after divorce.

باب نكاح الرقيق

نكاح العبد والامة والدبر والمكاتب وام الولد بلا اذن السيد

Q M K V B H

<sup>1</sup> موقوف فان اجاز نفذ وان رد بطل

Q M K V - H

وقوله طلقها رجعية اجازة لا طلقها او فارقتها

Q M K V B H

<sup>2</sup> فان نكحوا باذنه فالمهر عليهم يباع العبد فيه

- M K V B H

ويسمى الدبر والمكاتب ولا يباعان

- - K V B H

واذنه لعبدته بالنكاح يشمل جائزه وفاسده

- - - V - H

فبيع في المهران نكح فاسدا فوطي

- - - V - H

ويتم الاذن به حتى لو نكح بعده جائزا توفيق على الاجازة

- - K V - H

<sup>3</sup> وان زج عبده الطائون المديون صح وهي اسوة الغرط في مهر مثلها

ومن زج امته لا يلزمه تبوؤها وبطأ الزج متى ظفروا ولا نفقة

Q M K V B H

عليه الا بالتبوة

- - - V - H

وهو ان يخلى بينها وبين الزج في منزله ولا يستخدمها

فان بوأها ثم رجع صح وسقطت النفقة وان خدعه ~~بلا~~

V - H

استخدامه لا تسقط

- - K V B H

وان زج امته ثم قتلها قبل الدخول سقط المهر

- - K V B H

بخلاف ما لو قتل الحرة نفسها قبله

- - K V - H

<sup>4</sup> والاذن في العزل عن الامة للسيد وعندها لها

1) Q gives only the 'abd and the amat.

2) V uses the term al-qinn instead of al-'abd.

3) K uses ma'zūn instead of madyūn.

4) K and V do not mention the view of the two Imāms.



وان تزوجت امة او مكاتبه بالاذن ثم عتقت فلها الخيار في

الفسخ حرا كان زوجه او عبدا<sup>1</sup>

Q - K V B H

وان تزوجت بلاذن فعتقت ففقد

Q M K V B H

وكذا العبد و لا خيار لهما

Q M K - - H

والسبي للسيد ان وطئت قبل العتق ولها ان وطئت بعده

- - K V - H

ومن وطئ امة ابنه فولدت فادعاه ثبت نسبه منه

- - K V - H

ولزمه قيمتها لا مهرها ولا قيمة ولدها وتصير ام ولده

- - K V - H

والجد كالأب بعد موته لا قبله

- - K V - -

وان زج امة اباه جاز عليه مهرها لا قيمتها فان انت بولد

- - K V - H

لا تصير ام ولد وهو حر بقربائه

- - K V - H

حر قالت لسيد زوجها اعتقه عني بالف ففعل فسد النكاح ولزمها

- - K V - H

الالف والولاء لها

ويصح عن كفارتها لو نوت به

- - - V - H

وان لم تنقل بالالف لا يفسد والولاء له خلافا لابي يوسف

- - K V - -

وللمولى اجبار عبده وامة على النكاح دون مكاتبه ومكاتبته<sup>2</sup>

- - K V B -

1) M gives a slightly different example but reaches the same conclusion: "If a female slave marries without her owner's consent and afterwards becomes free, she is not at liberty to break off the marriage.

2) K and V do not mention the mukātab and the mukātaba.

## باب نكاح الكافر

واذا تزوج كافر بلا شهود او في عدة كافر آخر وذلك جائز في

دينهم ( ثم اسلطا اقرا عليه خلافا لها في العدة )<sup>1</sup>

Q M K V B H

Q M K V B H

ولو تزوج المجوسي محرمة ثم اسلطا او احدهما فرق بينهما

Q M - - B H

وكذا لو ترافعا اليها لوبعرافة احدهما لا يفرق خلافا لها

Q M K V B H

والطفل مسلم ان كان احد ابويه مسلطا او اسلم احدهما<sup>2</sup>

Q M K V B H

وكتابي ان كان بين كاتي وجوسي

ولو اسلمت زوجة الكافر او زوج المجوسية عرض الاسلام على

Q M K V B H

الاخر فان اسلم وهي له والا فرق بينهما

Q M K V B H

فان ابى الزوج فافرة طلاق خلافا لابي يوسف<sup>3</sup>

لا ان ابنت هي ولها المهر لو بعد الدخول والا فتمصفه لو ابى

Q M - V B -

ولا شيء لو ابنت

- - K V - H

ولو كان ذلك في دارهم لا تبين حتى تحيض ثلثا قبل اسلام الاخر

Q M K V B H

وان اسلم زوج الكتابية بقي نكاحهما

- M K V B H

وتباين الدارين سبب الفرة لا السبي

- 1) In B "without dowry" is also added, and M uses the term al-harbiyy instead of the kāfir.
- 2) M and K give: "the child is placed under the authority of the best of the parents with regard to their religion."
- 3) V does not give the view of Abū Yūsuf who held that the separation of the judge is not accepted as divorce.

- Q M - V B H فلوخرج احدها اليها مسلط او اخرج مسبيا بانت وان سبيا معالا  
 Q M K V B H ومن هاجرت اليها بانت ولا عدة عليها خلافا لها  
 Q M K V B H وارتداد احد الزوجين فسوخ في الحال  
 وعند محط ارتداد الرجل طلاق وللخطوة المهر ونفسيها  
 Q M K V B H نصفه ان ارتد ولا شيء لها ان ارتدت  
 Q - K V B H وان ارتدا معا واسلط معا لا تبين وان اسلط متعاقبا بانت  
 Q M K - B H ويصح تزوج العتد ولا العتدة احدا

### باب القسم

- Q M - V - H يجب العدل<sup>1</sup> بينة لا وطنا<sup>2</sup>  
 Q M K V - H والبكر والشب والجديدة والقديمة والسلمة والكتابة فيه سوا<sup>3</sup>  
 Q M - V - H والامة والمكاتبه والطبرة وام الولد نصف الحرة  
 Q M K V B H ولا قسم في السفر فيسافر بمن شا  
 Q M K V B H والقرعة احب وان وهبت قسمها لضررتها صح ولها ان ترجع

- 1) Q gives two cases as an example, the first is of a man with two wives, both of them free women; the second case is of a man with two wives, one a free woman and one a slave. H gives a tradition which says: "The man who has two wives and who, in partition, inclines particularly to one of them, shall on the day of judgement incline to one side." (That is to say, shall be paralytic).
- 2) This part is given only in B.
- 3) B adds that a newly married man is entitled to spend seven successive nights with the bride if she is a virgin. If not, it is three nights.
- 4) Not mentioned in K and B.



# كتاب السرقة

Q M K V B H	هي أخذ مكلف خفية قدر عشرة دراهم ضرورية <sup>1</sup>
Q M - V B H	من حرز لا ملك له فيه ولا شبهة
- M - - - H	وتثبت بما يثبت به الشرب <sup>2</sup>
- M K V B H	فان سرق مكلف حراً أو عبد ذلك القديح حراً بكان أو حافظ وأقربها أو شهدا عليه
Q M - V B H	وسألهما الإمام عن السرقة <sup>3</sup> ما هي وكيف هي واين هي وكم هي ومن سرق وبيناهما قطع <sup>4</sup>
Q M K V B H	وان كانوا جمعا واصاب كلا منهم قدر نصابها قطعوا وان تولى الاخذ بعضهم <sup>5</sup>
Q M K V B H	ويقطع بسرقة الساج والابنوس والصندل والفصوص الخضراء والياقوت والزبرجد والانا <sup>6</sup> والباب المتخذين من الخشب
Q M K V B H	( لا بسرقة شيء نافه يوجد مباحا في دارنا <sup>7</sup> ) كخشب وحشيش وقصب وسك وطير ووزنيخ ومغرة ونورة
Q M K V B H	( ولا بما يسرع فساد <sup>8</sup> ) كبن ولحم وفاكهة رطبة وبطيخ وكذا شعر على شجر ونزع لم يحصد

- 1) In B instead of mukallaf, 'āqil wa bāligh is used.
- 2) M gives qadhf instead of al-shurb.
- 3) The cross-questioning of the suspect by the imam does not take place in K.
- 4) H gives the Qur'anic verse (5:38): "As for the thief both male and female cut off their hands."
- 5) The author of the H holds that this is based on istihsān, but Zufar, applying qiyās, holds that only the one who took the stolen goods out of the hirz should be punished.
- 6) "Ruby" (yāqūt) and "chrysolite" are not mentioned in Q; K and V add "pearl".
- 7 and 8) Not in K, and in B without details.

( ولا بما يتأول فيه الانكار )<sup>1</sup> كاشربة طرية وآلات لهوكدف وطبل

Q M K V - H

وبربط ومزمار وطنبر وصليب ذهب وفضة وشطرنج أونرد

- M K V B H

ولا بسرقة باب مسجد<sup>2</sup> ( وكتب علم وصحف )<sup>3</sup>

- M K V B -

وصي حر ولو عليها حلية خلافا لابي يوسف

Q - K V B H

وعبد كبير ودفتر بخلاف الصغير ودفتر الحساب

ولا بسرقة كلب وفهد ولا بخيانة ونهب واختلاس وكذا نبش

Q M K V B H

خلافا لابي يوسف<sup>4</sup>

Q M - V B H

ولا بسرقة مال عامة أو مشترك

- - K V - H

أو مثل دينه أو أزيد حالا كان أو مؤجلا

- - - - - H

وان كان دينه نقدا فسرق عرضا قطع خلافا لابي يوسف

- - - - - H

وان كان ذلك دنانير فسرق دراهم أو بالعكس لا يقطع وقيل يقطع

Q M - - B H

ولا بما قطع فيه مرة ولم يتغير<sup>5</sup>

Q M - V - H

وان كان قد تغير قطع ثانيا كعزل نسج

1) Only this part is given in B.

2) Not in Q.

3) Not in B, and H does not give kutubi 'ilm.

4) Kalb and fahd are not mentioned in K.

5) Imām Shāfi'ī and Zufar oppose this view and say that the person who steals the same thing for the second time should be punished. They base their argument on the case of zinā by applying qiyās, and hold that since the person who commits adultery with the same woman for the second time is not exempted from hadd, likewise the one who steals the same object for the second time should not be exempted. (See Q, p. 113, in the margin.)

## فصل الحرز

Q M - - - H	هو قستان <sup>1</sup> بمان كيت ولوبلا باب أو بابهُ مقوح وكهندوق
Q - - - B H	وبحافظ كمن هو عند ماله ولونائما
- M - - B H	وفي الحرز بالمكان لا يعتبر الحافظ
Q - - - B H	ولا قطع بسرقة مال من بينها قرابة ولادة <sup>2</sup>
Q M K V B H	ولا بسرقة من بيت ذي رحم محرم (ولو مال غيره) <sup>3</sup>
- - - V - H	ويقطع بسرقة ماله من بيت غيره
- - K V - H	وكذا بسرقة من بيت محرم رضاعا خلافا لابي يوسف في الام
Q M K V B -	ولا قطع بسرقة مال زوجته او زوجها ولو من حرز خاص <sup>4</sup>
Q M K V B H	وكذا لو سرق من سيده او زوجة سيده او زوج سيده <sup>5</sup>
- - K - B -	أوخته أو صهره خلافا لهما <sup>6</sup>
Q M K V B H	أو ضنم أو حطام نهارا وإن كان ربه عنده
Q - K V B H	أو من بيت اذن في دخوله أو ضيفه
Q M K - - H	( و قطع لو سرق من الحطام ليلا ) <sup>7</sup> أو من المسجد ضاعا وره عنده
Q M K V - -	أو أدخل يده في صندوق غيره أو كنهه أو جيبه
Q M K V - H	أو سرق جوالقا فيه ضاع وره يحفظه أو نائم عليه

- 1) Q names them as ḥirzun li-ma'nan fīh wa ḥirzun bi'l-ḥāfiẓ.
- 2) Q and H put it in another phrase: min abawayhi wa waladihi.
- 3) Not in Q, M, K and B.
- 4) V gives 'irs instead of zawja.
- 5) H adds "... and if one of the wives steals from another one."
- 6) The view of the two Imāms is added by al-Ḥalabī.
- 7) Not in Q and K.



- - - - B -	أوسرق الموجر من البيت المستأجر خلافا لها
- - K V - H	ولو سرق شيئا ولم يخرج من الدار لا يقطع <sup>1</sup>
- - K V - H	بخلاف ما لو أخرجه من حجرة الى الدار <sup>2</sup>
- - K V - H	أو سرق بعض اهل حجرة دار من حجرة اخرى فيها
Q M K V B H	أو أخذ شيئا من حرز فالقاء في الطريق ثم خرج فأخذه <sup>3</sup> (أو حمله
Q - K V B H	على حمار فساقه فأخرجه من الحرز) <sup>4</sup>
Q - K - B H	ولو دخل بيتا فأخذ وناول من هو خارج لا يقطعان
- - - - B H	وكذا لو دخل الخارج يده فتناول
Q M K V B H	وقال ابو يوسف يقطع الداخل في الاولى ويقطعان في الثانية
Q - - - - H	وكذا لا يقطع لو نقب بيتا وادخل يده فيه واخذ شيئا (أو طرصرة
- - K V - H	خارجة من كم غيره خلافا له) <sup>5</sup>
- - K V - H	وان حلها واخذ من داخل الكم قطع اتفاقا
- M - - - -	ولو سرق من قطار حملا أو جملا لا يقطع
	وان شق الحمل واخذ منه شيئا قطع
	والفسطاط كالبيت

- 1) H explains that the whole house is considered as being hirz.
- 2) V and H use maqsūra instead of hujra.
- 3) H also maintains the opposite view of Zufar.
- 4) Not in M.
- 5) Not given in M.

## فصل في كيفية القطع واثنائه

Q M K V B H

تقطع<sup>1</sup> يمين السارق من زنده وتحسم<sup>2</sup>

Q M K V B H

ورجله اليسرى ان عاد

Q M K V B H

فان سرق ثالثا لا يقطع بل يحبس حتى يتوب<sup>3</sup>

وطلب السروق منه شرط القطع ولو مودعا او غاصبا او صاحب الربوا

او مستعمرا او متاجرا او خارا او مستبضا او قابضا على

- - K V B H

سوم الشراء او مرتبنا<sup>4</sup>

Q - K - - H

ويقطع بطلب الطلک ايضا في السرقة من هؤلاء

- - - - - H

لا بطلب السارق او الطلک لو سرق من السارق بعد القطع

- - - - - H

بخلاف ما لو سرق منه قبل القطع او بعد درء الحد بشبهة

- - K - - -

وان لم يطلب احد لا يقطع وان اقر هو بها

Q M - - - -

ولا بد من حضوره عند الاقرار والشهادة وعند القطع

ولو كانت يده اليسرى او ابهامها مقطوعة او شلاء او اصبعان سوى

Q M K V - H

الابهام كذلك لا يقطع منه شيء بل يحبس

Q M K V - H

وكذا لو كانت رجله اليمنى مقطوعة او شلاء

- - - - B H

ولا يضمن الطامور بقطع اليمنى لو قطع اليسرى وعندها يضمن ان تعد

- - K V - H

ومن سرق شيئا ورده الى مالكه قبل الخصومة لا يقطع

1) V treats al-yadu as masculine and thus says yuqṭa'u.

2) H gives a tradition which says "Cut off (the hand of a thief) completely."

3) H gives the view of al-Shafi'i, which is to amputate the left hand of the thief if he commits theft for the third time; but Hanafites preferred long-term imprisonment to this.

4) In B this is given briefly and K gives only the first part, up to musta'iran.

Q - K V - H	وكذا لو نقت قيسه من النصاب قبل القطع
- - K V B H	أو ملكه بعد القضا أو ادعى انه ملكه وان لم يثبت
- - K V - H	وكذا لو ادعاه احد السارقين
- - K V - H	ولو سرقا وغاب احدهما وشهدا على سرقتهما قطع الآخر
- - K V - H	ولو اقر العبد الطائون بسرقة قطع وردت
	وكذا المحجور عليه عند الامام وعند ابي يوسف يقطع ولا ترد
- - - - B H	وعند محمد لا يقطع ولا ترد
Q M K V B H	ومن قطع بسرقة والعين قائمة ردها
Q M - V B H	وان لم تكن قائمة فلا ضمان عليه وان استهلكها
	وان سرق سرقات فقطع بكلها او بعضها لا يضمن شيئا منها وقالا
- - K V - H	يضمن ما لم يقطع به <sup>1</sup>
- - K V B H	ولو سرق ثوبا فشقه في الدار ثم اخرجته قطع <sup>2</sup>
- - K V - H	لا ان سرق شاة فذبحها ثم اخرجها
- - - V - H	ولو ضرب الصروق دراهم او دنانير قطع وردها وعند محمد لا يردها <sup>3</sup>
	ولو صبغه احمر لا يؤخذ منه ولا يضمنه وعند محمد يؤخذ منه
- - K V B H	ويعطى ما زاد الصبغ
	وان صبغه اسود اخذ منه ولا يعطى شيئا وحكمها فيه
- - K V B H	كحكمها في الاحمر

- 1) K makes this point clearer by stating that amputation and restitution cannot be applied at the same time to the thief.
- 2) In K and B the opposite view of Abū Yūsuf is also added.
- 3) The view of the two Imāms is not given in V.



## باب قطع الطريق

من قصد قطع الطريق<sup>1</sup> من مسلم او ذمي على مسلم او ذمي فاخذ قبله

Q M K V B H

حبس حتى يتوب

وان اخذ مالا وحصل لكل واحد نصاب السرقة قطع يده اليمنى

Q M K V B H

ورجله اليسرى

Q M K V B H

وان قتل فقط ولو بمصا او حجر قتل حدا فلا يعتبر عفو الولي

Q M K V B H

وان قتل واخذ مالا قطع وقتل وصنباو قتل او صلب

- M - - B H

وخالف محمد في القطع

Q M K V B H

ويصلب حيا و يبيع بطنه برمح حتى يموت ويترك ثلاثة ايام فقط

- - K V - H

ويرد ما اخذ الرمالكة ان باقيا والا فلا ضمان

Q M K V B H

ولو باشر الفعل بعضهم حدا وكهم

- - K V - H

وان اخذ مالا وجرح قطع من خلاف والجرح هدر<sup>2</sup>

- - K V B H

وان جرح فقط او قتل فتا ب قبل ان يؤخذ فلا حد

- - K V B H

والحق للولي ان شاء عفى وان شاء اخذ بموجب الجنابة

Q M K V B H

وكذا لو كان فيهم صبي او مجنون او ذورحم محرم من المقتول عليه<sup>3</sup>

- M K V B H

او قطع بعض القافلة على بعض<sup>4</sup>

- - K V B H

او قطع الطريق ليلا او نهارا بمصر او بين مدين

- - K V - H

ومن خنق في الصر غير مرة قلد به والا فكالقتل بالثقل<sup>5</sup>

1) In M and B the plural form is used, as ... idhā kharaja jamā'atun fa-akhadhū. In Q both are given as " a group of people or an individual" but are not qualified as muslim or dhimmī as it is in K.

2) K maintains that a stick or a stone is considered as a sword (a deadly weapon) if they are used in wounding a person.

3) V uses ghayr mukallaḥ instead of sabiyy.

4) al-mārṛa is used instead of al-qāfila in V.

5) V maintains that if a person kills another by strangling he has to pay blood money, but if he does it more than once he is to be sentenced to death by the same way as an administrative (extra-canonical) measure (siyāsatan).

Q M K V B H

## كتاب الجنائيات

Q M K V B H

القتل أما عمد وهو ان يقصد ضربه بما يفرق الاجزاء من سلاح<sup>1</sup>

Q M K V - H

أو محدد من حجر أو خشب أو ليطة أو حرق بنار

Q - - - - -

وعندهما بما يقتل غالباً

Q M K V B H

وموجبه الاثم والقصاص عينا الا ان يعفى ولا كفارة في<sup>2</sup>

Q M K V B H

وأما شبه عمد وهو ضربه قصداً بغير ما ذكر<sup>3</sup>

Q M K V B H

وموجبه الاثم والكفارة والدية الضلطة على العاقلة<sup>4</sup>

Q M - V B H

لا القود (وهو فيط دون النفس عمداً)<sup>5</sup>

وأما خطأ وهو في القصد بان يري شخصا ظنه صيدا أو حربياً فإذا هو

Q M K V B H

آدمي معصوم أو في الفعل بأن يري عرضاً فيصيب آدمياً

Q M K V B H

وأما ما أجرى مجرى الخطأ كنائم انقلب على آخر فقله

Q M K V B H

وموجبهما الكفارة والدية على العاقلة

وأما قتل بسبب وهو نحو أن يحفر بئراً أو يضع حجراً في غير ملكه

Q M K V B H

بلائذان ماله فهلك به انسان

Q M K V B H

وموجبه الدية على العاقلة لا الكفارة

- M K V B H

وكلها توجب حرمان الارث الا هذا

- 1) Q, M, H first define killing in five categories and then explain.
- 2) H gives two Qur'anic verses, (4:93) "Whoso slayeth a believer of set purpose, his reward is Hell for ever" and (2:178) "O ye who believe! Retaliation is prescribed for you in the matter of the murdered..."
- 3) M gives three examples for this case, hitting a person with stone, stick or hand. In this chapter M adds if someone dies of grief or hunger in a well, this is considered as a loss (hadar).
- 4) In B, freeing a Muslim slave (raqaba) or two months' fasting are added before the kaffāra.
- 5) Not in K.
- 6) Q does not mention the harbī.

باب ما يجب القصاص وما لا يوجب

Q V K - - H

يجب القصاص بقتل من هو محقون الدم على التأبيد عدا

Q V K M B H

فيقتل الحر بالحر والعبد بالمسلم بالذمي

Q V K M B H

ولا يقتل من بمسئ من (بل المسئ من بمثله)<sup>1</sup>

Q V K M B H

والذكر بالأنثى والعاقل بالمجنون والبالغ بغيره<sup>2</sup> والصحيح بغيره

- V K M - H

وكامل الاطراف بناقضها (والفرع باصله لا الاصل بفرعه)<sup>3</sup>

- - - - B -

بل تجب الدية في مال القاتل في ثلاث سنين

Q V K M B H

ولا السيد بعبد ومديره ومكاتبه وعبد ولده وعبد بعضه له

- V K M B H

وان ورث قاصا على ابيه سقط

- - - M B -

ولا قاص على شريك الاب او العولي او الخطي او الصبي او المجنون

- - - M - -

وك من لا يجب القصاص بقتله

Q V K M B H

وان قتل عبد الرهن لا يقص حتى يحضر الراهن والمرتبه

وان قتل مكاتب عن وفا وله وارث مع سيده فلا قصاص وان لم يكن

Q V K M B H

وفا يقص سيده

- V - M - H

وكذا ان كان وفا لا وارث غير سيده خلافا لمحمد

Q V K M B H

ولا قصاص الا بالسيف

1) Not given in K.

2) In K, M and B instead of al-dhakarū and al-unthā, al-rajul and al-mar'a are given, also al-a'mā is mentioned in Q, V and B. The terms, kabīr and ṣaghīr are used instead of bāligh and bi-ghayrih in K and M.

3) Not given in K, but, K adds al-waladu bi'l-waladi. K also maintains that an adult is not to be killed for an infant. K and M both state that the mother, grandfather and grandmother have the same position as the father in his absence.



ولا يبي المعنوه ان يقص من قاطع يده وقائد قريبه وان يصلح الا أن

يعفو

- V K M - H

- V K M - H

والصبي كالمعنوه والقاضي كالأب هو الصحيح

- - - M - H

وكذا الوصي الا أنه لا يقص في النفس

ومن قتل وله اولياء كبار وصغار فللكبار الاقتصاص من قاتله

- V - - B H

قبل كبر الصغار خلافا لها ولو غاب احد الكبار ينتظر اجطاء

ومن قتل بحديدة المراقص منه ان جرحه وان بظهره او عصاه

- V K - - H

فلا وعليه الدية وعندها يقص

وكذا الخلاف في كل مثل وفي التفريق والخنق وان تكرر منه قتل

- V K M - H

<sup>1</sup> به اجطاء

ولا قصاص في القتل بعوالة ضرب السوط ( ومن جرح فلم يزل

Q V K M B H

<sup>2</sup> ذافراش حتى مات اقص من جرحه )

واذا التقى الصغان من المسلمين وأهل الحرب فقتل مسلما ظنه

- V - - - H

حربيا فعليه الدية والكفارة لا القصاص

1) K and V do not qualify it as ijmā'an, and M does not give the condition "if it is repeated by him." H adds that according to Imām Muḥammad and Yūsuf if somebody drowns another person in the sea, he is to be sentenced to death. Their evidence is the tradition which says "Whoever drowns (someone) we drown him." Imām Shāfi'ī also holds the same view. Here al-Ḥalabī follows the view of Abū Ḥanīfa which had also been adopted by most of the sources he used.

2) This part is omitted by Q and H and the first part is not given in K and M.

- V K - - H ومن مات بفعل نفسه وزيد وحية وأسد فعلى زيد ثلث دينه
- V K - - H ومن شهر على المسلمين سيفا وجب قتله ولا شيء<sup>1</sup> بقتله
- V K - - H ولا في قتل من شهر على آخر سلاحا ليلا أو نهارا في هر أو غيره
- V K - - H أو شهر عليه عصا ليلا في هر أو نهارا في غيره فقتله الشهر عليه
- ولا على قتل من سرق مائة ليلا وأخرجه ان لم يمكنه الاسترداد
- V K - - H بدون القتل<sup>2</sup>
- V K - - H ويجب القصاص على قاتل من شهر عصا نهارا في هر
- V K - - - أو شهر سيفا وضرب به ولم يقتل ورجع
- ولو شهر مجنون أو صبي على آخر سيفا فقتله الآخر عدا فعليه
- V K - - H الدية في ماله
- V K - - H ولو قتل جملا صال عليه ضمن قيمته<sup>3</sup>

- 1) H gives a tradition which says "Whoever draws a sword against Muslims, his blood becomes lawful to shed."  
(In other words "it is lawful to kill him.")
- 2) V does not state the condition "if he is not able to recover his property without killing."
- 3) K gives dābba instead of jamal.

## باب القصاص فيما دون النفس

- V - M - -	هو فيما يمكن فيه حفظ المطائلة اذا كان عمدا
Q V K M B H	<sup>1</sup> فيقتص بقطع اليد من الغضل وان كانت اكبر من يد المقتطوع
	(وكذا الرجل وفي طرن الأنف وفي الاذن <sup>2</sup> وفي العين ان ذهب
	ضوءها وهي قائمة لا ان قلعت) فيجعل على الوجه قطن رطب
Q V K M B H	<sup>3</sup> وتقابل العين بمرآة محلاة حتى يذهب ضوءها
Q V K - - H	وفي كل شجة تراعى فيها المطائلة كالموضحة
Q V K M - H	<sup>4</sup> ولا قصاص في عظم سوى السن ( فيقطع ان قلع ويبرد ان كسر ) <sup>5</sup>
Q V - - B H	ولا بين طرفي ذكر وانثى وحر وعبد أو طرفي عبيدين <sup>6</sup>
Q V K - B H	ولا في قطع يدين من نصف الساعد ولا في جائفة برأت
Q V K M B H	ولا في اللسان ولا في الذكر الا ان قطعت الحشفة فقط
Q V K - B -	وطرف السلم والذي سواه <sup>7</sup>
	وخير المجني عليه بين القصاص واخذ الارش لو كانت يد القاطع
Q V K M B H	_____ لا
	أو ناقصة الإصابع أو رأس الشاچ أصغر أو أكبر لا تستوعب الشجة
Q V K M B H	ما بين قرنيه وقد استوعبت ما بين قرني الشجج

- 1) H gives the Qur'anic verse (5:45) "And we prescribed for them therein: The life for the life and the eye for the eye and the nose for the nose, and the ear for the ear and the tooth for the tooth and for wounds retaliation."
- 2) Not in M and H.
- 3) The details are omitted in K.
- 4) The relevant part of the above mentioned Qur'anic verse is given in H.
- 5) Not in Q and B.
- 6) V and H use the terms rajul and imra'a instead of dhakar and unthā.
- 7) K and H use the term kāfir instead of dhimmī.



# فصل

Q V K - - H	ويسقط القصاص <sup>1</sup> بموت القاتل وبمغفروا لوليا <sup>2</sup> وبصلحهم على مال
Q V K - - H	وان قل <sup>3</sup> ويجب حالا وبصلح بعضهم أو عفوهم
- - - - - H	(ولمن بقي حصته من الدية <sup>4</sup> ) في ثلاث سنين على القاتل هو الصحيح
- - - - - H	وقيد على العاقلة
- V - - - H	ولو قتل حر وعبد شخصا فأمر الحر <sup>5</sup> وسيد العبد رجلا بالصلح على
Q V K M B H	دمها بألف فضالحي فهي نصفان
Q V - - - H	فيقتل الجمع بالفردي <sup>3</sup> والفردي بالجمع <sup>4</sup> (اكفا <sup>4</sup> ان حضر اولياؤهم)
Q V K M B H	وان حضر واحد قتل له وسقط حق البقية
Q V - - - H	ولا تقطع <sup>5</sup> يدا <sup>5</sup> بيد وان امرا سكيناً فقطعا معا بل يضمنان دينها
Q V K M B H	فان قطع رجل يميني رجلين فلهما قطع يمينه ودية بينهما ان حضرا
Q V K M B H	معا وان حضرا احدهما فقطع فلا اثر الدية
Q V K - - H	ومع اقرار العبد بقتل العمد يقتص به
Q - K M B H	ومنرى رجلا عمدا فنفذ بالآخر فماتا اقصى للاول وعلى
	عاقله الدية للثاني

- 1) V uses the term qawad instead of qisās.
- 2) Only this part is given in V.
- 3) H reports the following statement about Caliph 'Umar.  
When a person was killed by a group of people in Ṣan'ā', 'Umar sentenced the group to death, saying: "If all the people of Ṣan'ā' had been involved I would have punished all of them."
- 4) Not in Q and B.
- 5) V gives this as yuqta'u which is an error, since the parts of the body such as hands, eyes, feet are to be treated as feminine.

## فصل

- V K M B H ومن قطع يد رجل ثم قتله أخذ بهما مطلقاً ان تخلصها ببراً  
والأفان اختلفا عمداً وخطأً أخذ بهما لا ان كانا خطئين بل  
تکفي دية
- V K M B H وفي العمدین يؤخذ بهما وعندهما يقتل فقط  
- - - - B H ولو ضربته مائة سوطاً فبراً من تسعين ومات من عشرة وجبت دية فقط  
- V K - - H وان جرحته وبقي الاثر ولم يمت تجب حكومة عدل<sup>1</sup>  
- V - - - H ومن قطعت يده عمداً فعفى عن القطع فمات منه فعلى قاطعه  
الدية في ماله وعندهما هو عفو عن النفس<sup>2</sup>  
- V K M - H وان عفا عن القطع وما يحدث منه أو عن الجناية فهو عفو  
عن النفس اجطاء<sup>3</sup>
- V K M - H والعمد من كل الطال والخطأ من ثلث والشح كالظلع  
- V K M - H وان قطعت امرأة يد رجل فتزوجها<sup>4</sup> على يده ثم مات فعليه مهر  
مثلها وعليها الدية في ماله ان عمداً وعلى عاقلتها ان خطأً  
- V K - - H وان تزوجها على اليد وما يحدث منها أو على الجناية ثم مات فعليه  
مهر المثل في العمد ويرفع عن العاقلة مقداره في الخطأ  
- V K - - H والباقي وصية لهم فان خرج من الثلث سقطوا الا فقدر ما يخرج منه

- 1) In this chapter B states that if an infant dies of disciplinary beating by the father or the guardian, this kind of accidental killing also necessitates blood-money.
- 2) The view of the two Imāms is not given in V and K.
- 3) M does not qualify this as ijmā'an.
- 4) V uses the term nikāh instead of tazawwuj.

- - - - - H وكذا الحكم عندهما في الصورة الاولى  
 - V K - - H ومن قطعت يده فمات بعد ما اقتص له من القاطع قتل قاطعه  
 - V K - - H <sup>1</sup> ومن قتل له ولي عمدا فقطع يد قاتله ثم عفا عن القتل فعليه دية قاليد  
 ومن قطعت يده فاقص قاطعها فسرى الى نفسه فعليه دية النفس خلافا  
 - - - - B H لهما فيهما

## باب الشهادة في القتل واعتبار حاله<sup>2</sup>

القود يثبت للوارث ابتداء لا بطريق الارث فلا يكون احدهم خصما  
 - V - - - - عن البقية فيه بخلاف المال  
 فلو اقام احد ابنين حجة بقتل ابيهما عمدا والاخر غائب لم  
 - V K - - H اعادتها بعد عود الغائب خلافا لهما  
 - V K - - H وفي الخطأ والدين لا تلزم  
 - V - - - H ولو برهن القاتل على عفو الغائب فالحاضر خصم ويسقط القود  
 - V K - - H وكذا لو قتل عبد لرجلين واحد منهما غائب  
 ولو شهد وليا قصاص بعفو اخيهما لغت فان صدقهما القاتل فقط  
 - - - - - H فالدية بينهم اثلاثا وان كذبا هـ فلا شيء لهما ولا خيهما ثلث الدية  
 - V - - - H وان صدقهما اخوهما فقط غرم القاتل له ثلث الدية ثم يأخذانه منه

- 1) The two Imāms held that the latter is under no obligation to indemnify the hand.
- 2) This chapter is not given in Q and B. B only gives a case dealing with the withdrawal of a piece of evidence given by some people on an intentional killing. K in this chapter adds: "If a person testifies that another person hit the victim who later dies as a result of this assault before recovery, the qisās is to be applied to the assaulter."



- وان اختلف شاهد القتل في زمانه او مكانه او آله او قال احدهما  
 - V K - - H ضربه بعضا وقال آخر لا أدري بطاذا قله بطلت  
 - V K - - H وان شهدا بالقتل وجهلا الآلة لزممت الديانة  
 ولو أقرت ك من رجلين يقتل زيد عمرا وآخران بقتل بكر اياه وادعى  
 - V - M - - عليه قتلنا لفسنا  
 - V K - - H والعبرة بحالة الرمي لا الوصول بتبدل حال الرمي عند الامام  
 - V - M B - فلورى مسلما فارتد فوصل اليه فوات تجب الدية خلا فله<sup>1</sup>  
 - - - M B H ولورى مرتدا فاسلم قبل الوصول لا يجزئ<sup>2</sup> وان رمى عبدا  
 فاعتق فوصل فعليه قيمته عبدا وعند محمد فضل طابن قيمته  
 - V - M B H رميا وغير مرمي<sup>3</sup>  
 وان رمى محرم صيدا فعل فوصل وجب الجزاء وان رماه حلال  
 - V - - - H فاحرم فوصل فلا  
 - V - - - H وان رمى من قسى عليه برجم فرجع شهوده فوصل لا يضمن  
 - V - - - H ولورى مسلم صيدا فتمجس فوصل حل وفي العكس يحرم

- 1) These following cases are very unlikely to happen but they give the idea that in a criminal case a person is responsible for the situation and condition of a thing or a person when he shoots at or throws at something. If these are changed after he shoots still the previous conditions are taken into account.
- 2) K does not cite the following cases, but gives the idea briefly.
- 3) M does not give the view of Imām Muḥammad.